

Child & Spousal Support In Connecticut

A Guide to Resources in the Law Library

Compiled

by

Lawrence Cheeseman

Connecticut Judicial Branch
Law Libraries

2002 Edition

“All light is valuable on a darken path.”
DeQuincy

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These guides are provide with the understanding that they represent only a beginning to research.

Contents

1 ALIMONY IN CONNECTICUT	5
§ 1.1 DUTY TO SUPPORT SPOUSE	7
§ 1.2 ALIMONY PENDENTE LITE.....	10
§ 1.3 MODIFYING ALIMONY	13
§ 1.4 FACTORS CONSIDERED IN AWARDING AND MODIFYING	17
§ 1.5 ENFORCING ALIMONY IN CONNECTICUT	25
§ 1.6 ALIMONY AND A NONRESIDENT PARTY	29
§ 1.7 DURATION OF ALIMONY IN CONNECTICUT.....	31
§ 1.8 ATTORNEY FEES AND EXPENSES	34
§ 1.9 TAX CONSEQUENCES OF ALIMONY	36
§ 1.10 BANKRUPTCY AND ALIMONY	40
2 CHILD SUPPORT IN CONNECTICUT.....	43
§ 2.1 DUTY TO SUPPORT CHILDREN	45
§ 2.2 CHILD SUPPORT GUIDELINES	50
§ 2.2a <i>Applicability and Use</i>	51
§ 2.2b Deviation from Guidelines.....	53
§ 2.2c <i>When Not Applicable</i>	55
§ 2.3 CHILD SUPPORT PENDENTE LITE	57
§ 2.4 MODIFYING CHILD SUPPORT	60
§ 2.5 FACTORS USED.....	68
§ 2.6 ENFORCEMENT	70
§ 2.7 OUT-OF-STATE CHILD SUPPORT ORDERS IN CONNECTICUT COURTS	81
§ 2.8 DURATION AND TERMINATION	88
§ 2.9 CHILD SUPPORT AND TAXES	91
§ 2.10 BANKRUPTCY AND SUPPORT	96
GLOSSARY	99
TABLE OF CASES	104
TEXTS & TREATISES.....	107
INDEX.....	108

TABLES

TABLE 1 PROOF OF ABANDONMENT OF THE MARRIAGE WITHOUT CAUSE	9
TABLE 2 STATUTORY FACTORS IN AWARDING ALIMONY.....	20
TABLE 3 WIFE'S ABILITY TO SUPPORT HERSELF.....	21
TABLE 4 PROOF OF FORMER WIFE'S ABILITY TO EARN OWN SUPPORT	21
TABLE 5 PROOF OF RIGHT TO SPOUSAL SUPPORT AND FACTORS AFFECTING AMOUNT OF SUPPORT	22
TABLE 6 STATUTORY FACTORS AND APPEALS OF ALIMONY AWARDS.....	23
TABLE 7 IV-D SPOUSAL SUPPORT	27
TABLE 8 QUESTIONS & ANSWERS ON ALIMONY AND TAXES	39
TABLE 9 STATUTORY DUTY TO SUPPORT CHILDREN.....	48
TABLE 10 IV-D TEMPORARY CHILD SUPPORT.....	59
TABLE 11 <u>TURNER V. TURNER</u>	64
TABLE 12 IV-D CHILD SUPPORT CASES.....	65
TABLE 13 STATUTORY FACTORS IN DETERMINING CHILD SUPPORT	69
TABLE 14 CONNECTICUT STATUTES ENFORCING CHILD SUPPORT	74
TABLE 15 FEDERAL STATUTES & REGULATIONS ENFORCING CHILD SUPPORT	75
TABLE 16 HISTORY OF FEDERAL LEGISLATION DEALING WITH CHILD SUPPORT	77
TABLE 17 AGENCIES INVOLVED IN CHILD SUPPORT	78
TABLE 18 CHILD SUPPORT AND PARENTAL AGREEMENTS.....	79
TABLE 19 CONNECTICUT'S LONG ARM STATUTE	83
TABLE 20 ENFORCEMENT OF FOREIGN MATRIMONIAL JUDGMENTS	84
TABLE 21 UNIFORM INTERSTATE FAMILY SUPPORT ACT	85
TABLE 22 QUESTIONS AND ANSWERS ON CHILD SUPPORT AND TAXES.....	94
TABLE 23 CHILD SUPPORT PAYMENTS.....	95

1

Alimony in Connecticut

A Guide to Resources in the Law Library

Definitions:

- “The term alimony usually and technically means an allowance for spousal support and is distinguishable from property division and child support.” In Re Marriage of Sjulín, 431 NW2d 773 (Iowa 1988).
- “The difference between the assignment of property under § 46b-81 and alimony under § 46b-82 The purpose of property assignment is equitably to divide the ownership of the parties’ property On the other hand, periodic and lump sum alimony is based primarily upon a continuing duty to support” Dubicki v. Dubicki, 186 Conn. 709, 714, footnote 2, 443 A.2d 1268 (1982).

Sections in this chapter:

§ 1.1 DUTY TO SUPPORT SPOUSE	7
§ 1.2 ALIMONY PENDENTE LITE	10
§ 1.3 MODIFYING ALIMONY	13
§ 1.4 FACTORS CONSIDERED IN AWARDING AND MODIFYING	17
§ 1.5 ENFORCING ALIMONY IN CONNECTICUT.....	25
§ 1.6 ALIMONY AND A NONRESIDENT PARTY	29
§ 1.7 DURATION OF ALIMONY IN CONNECTICUT.....	31
§ 1.8 ATTORNEY FEES AND EXPENSES	34
§ 1.9 TAX CONSEQUENCES OF ALIMONY	36
§ 1.10 BANKRUPTCY AND ALIMONY	40

Tables in this chapter:

TABLE 1 PROOF OF ABANDONMENT OF THE MARRIAGE WITHOUT CAUSE.....	9
TABLE 2 STATUTORY FACTORS IN AWARDING ALIMONY	20
TABLE 3 WIFE'S ABILITY TO SUPPORT HERSELF.....	21
TABLE 4 PROOF OF FORMER WIFE'S ABILITY TO EARN OWN SUPPORT	21
TABLE 5 PROOF OF RIGHT TO SPOUSAL SUPPORT AND FACTORS AFFECTING AMOUNT OF SUPPORT	22
TABLE 6 STATUTORY FACTORS AND APPEALS OF ALIMONY AWARDS.....	23
TABLE 7 IV-D SPOUSAL SUPPORT	27
TABLE 8 QUESTIONS & ANSWERS ON ALIMONY AND TAXES	39

INDEX

- Abandonment, proof of, Table 1
- Absolute right to alimony, § 1.4
- Acquiescence as defense to arrearage, § 1.5
- Ages of parties, factor in awarding alimony, § 1.4
- Alimony, definition, title page (Chapter 1)
- Appeals, statutory factors, Table 6
- Arrearage, defenses to, § 1.5
- Assignment of property, title page (Chapter 1)
- Attorney fees and expenses**, § 1.8
- Attorney General, Table 7
- Bankruptcy**, § 1.10
- Basis for alimony, § 1.1
- Burial, § 1.1
- Causes of dissolution of marriage (factor), § 1.4
- Child support, § 1.8
- Cohabitation**
 - Definition, § 1.3
 - Modification because of, §§ 1.3, 1.7
 - Statute (Connecticut), § 1.7
- Contempt, definition, § 1.5
- Continuing duty to support, § 1.1
- Death of obligor, §§ 1.5, 1.7
- Defenses, § 1.1
- Department of Social Services, Table 7
- Duration of alimony**, § 1.7
- Duty to support, § 1.1
- Enforcing alimony, § 1.5
- Equitable estoppel, § 1.5
- Escalation clause, § 1.5
- Estates of parties (factor), § 1.4
- Expenses, attorney, § 1.8
- Factors considered in awarding**, §§ 3, 4
 - Statutory, Table 2
- Family Support Magistrate Division, Table 7
- Fraudulent conveyance, § 1.5
- Health of parties (factor), § 1.4
- Inability to pay, § 1.5
- Income (factor), § 1.4
- Interest, modified retroactive order, § 1.3
- IV-D Support, Table 7
- Laches (as defense) to arrearage, § 1.5
- Length of marriage, § 1.4
- Liabilities, as factor in awarding alimony, § 1.4
- Long arm statute, § 1.6
- Lump sum alimony, §§ 1.3, 1.7
- Medical care (necessity), § 1.1
- Mentally ill spouse, § 1.1
- Misconduct, effect on modification, § 1.3
- Modifying alimony, §§ 1.3, 1.7
- Motion for contempt (form), § 1.5
- Motion for modification (form), § 1.3
- Necessities**, § 1.1
- Needs (factor), § 1.4
- Nondischargeable (bankruptcy), § 1.10
- Nonresident party, § 1.6
- Occupation (factor), § 1.4
- Open-ended alimony, § 1.7
- Order of support for mentally ill spouse, §§ 1.1, 1.7
- Out of state decree, § 1.5
- Pendente lite**, § 1.2
 - amount of award, § 1.2
 - definition, § 1.2
 - forms, § 1.2
 - purpose, § 1.2
 - time for raising claim, § 1.2
- Periodic alimony, § 1.7
- Permanent alimony, § 1.7
- Plastic surgery (as necessity), § 1.1
- Post judgment motion, § 1.3
- Prenuptial agreements, § 1.2
- Proofs**
 - abandonment without cause, Table 1
 - former wife's ability to earn own support, Table 4
 - right to decrease support, § 1.3
 - right to increased support, § 1.3
 - right to support and factors affecting, Table 5
 - right to terminate support, § 1.3
 - wife's ability to support herself, Table 3
- Property division (factor), § 1.4
- Questions and answers, alimony and taxes, Table 8
- Rehabilitative alimony, definition, § 1.7
- Remarriage, §§ 1.3, 1.7
- Separation defense, § 1.1
- Station in life (factors), § 1.4
- Substantial change in circumstances, § 1.3
- Support Enforcement Officers, Table 7
- Tax consequences, § 1.9
- Temporary alimony, § 1.2
- Vacation of alimony, § 1.3
- Vocation skills (factor), § 1.4

1.1 Duty to Support Spouse

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SCOPE:

Bibliographic resources relating to joint duty to support spouse as basis for awarding alimony. Also, liability of one spouse for purchases and contracts made by other spouse.

DEFINITION:

- “An award of alimony is based primarily on a spouse’s continuing duty to support . . . General Statutes § 46b-82 governs the award of alimony and specifically states it may be in addition to a property distribution award” Martone v. Martone, 28 Conn. App. 208, 217, 611 A.2d 896(1992).

STATUTES:

- CONN. GEN. STAT. (2001)
 - § 46b-37. Joint duty of spouses to support family. Liability for purchases and certain expenses. Abandonment.
 - § 46b-85. Order for support of mentally ill spouse
 - § 53-304(a). Nonsupport

CASES:

DUTY TO SUPPORT

- Feldman v. Allegheny Airlines, Inc., 524 F.2d 384 (1975), remand 452 F.2d 151.
- U.S. v. Edwards, 572 F. Supp. 1527 (1983).
- Page v. Welfare Commissioner, 170 Conn. 258, 365 A.2d 1118 (1976).
- Sklar v. Sklar’s Estate, 168 Conn. 101, 357 A.2d 900 (1975).
- McDonnell v. McDonnell, 166 Conn. 146, 348 A.2d 575(1974)..

ALIMONY

- Rubin v. Rubin, 204 Conn. 224, 234, 527 A.2d 1184 (1987). “It must be remembered, however, that an alimony order is predicated upon the obligation of support that spouses assume toward each other by virtue of the marriage.”
- Baker v. Baker, 166 Conn. 476, 488 , 352 A.2d 217(1974). “The primary basis for an award of alimony is the continuing duty of a divorced husband to support a wife, whom, in legal contemplation, he has abandoned.”
- Fattibene v. Fattibene, 183 Conn. 433, 441, 441 A.2d 3 (1981). “The primary basis for an award of alimony has been not to punish a guilty spouse but to continue the duty to support”
- Venuti v. Venuti, 185 Conn. 156, 158, 440 A.2d 878 (1981). “Adultery is not listed as a factor to be considered unless it is one of the causes for the dissolution of marriage.”

NECESSITIES

- Foran v. Carangelo, 153 Conn. 356, 216 A.2d 638 (1966).
- State v. Turello, 183 Conn. 330, 439 A.2d 364 (1981). *Chronic illness.*
- Ematrudo v. Gordon , 100 Conn. 163, 123 A. 14 (1923). *Plastic surgery on spouse.*
- Hanf v. Hanf, 23 Conn. Supp. 306 at 307, 182 A.2d 631(1962). *Medical care and burial of spouse.*

- Cohn v. Snyder, 102 Conn. 703, 130 A. 631 (1925). *Rent*

DEFENSES

- Yale University School of Medicine v. Scianna, 45 Conn. Supp. 84, 701 A.2d 65 (1977). *History of the separation defense.*
- Yale University School of Medicine v. Collier, 206 Conn. 31 at 37, 536 A.2d 588 (1988). "It follows that since the decedent left the named defendant without just cause, the obligations of the named defendant imposed by 46b-37(b) were suspended."

WEST KEY NUMBERS:

Husband and Wife

- # 4. Support of family
- # 19. Necessities and family expenses
 - 19(3). Separation defense
 - 19(14). What constitutes necessities in general
 - 19(15). Medical services
 - 19(16). Last sickness and funeral expenses

DIGESTS:

DOWLING'S DIGEST: *Husband and Wife*

- § 8. Liability of one spouse for contracts and purchases of other

ENCYCLOPEDIAS:

- 41 AM. JUR. 2D *Husband & Wife* (1995).
§§ 183-208. Necessaries
- 41 C.J.S. *Husband and Wife* (1991).
§§ 48-55. Support of spouse; Necessaries and family expenses
- *Abandonment Of Marriage Without Cause—Defense In Alimony, Spousal Support, Or Separate Maintenance Proceedings*, 27 POF2d 737 (1981).
§§ 5- 11. Proof that spouse wilfully abandoned marital domicile without good cause, thereby precluding award of alimony, spousal support, or separate maintenance [[TABLE 1](#)].
- *Wife's ability to support herself*, 2 POF2d 99 (1974).
§§ 5-22. Proof of former wife's independent means of support [[TABLE 3](#)]
- Jay M. Zitter, Annotation, *Modern Status Of Rule That Husband Is Primarily Or Solely Liable For Necessities Furnished Wife*, 20 ALR4th 196 (1983).
- Jay M. Zitter, Annotation, *Necessity, In Action Against Husband For Necessaries Furnished Wife, Of Proving Husband's Failure To Provide Necessaries*, 19 ALR4th 432 (1983).
- Jay M. Zitter, Annotation, *Wife's Liability for Necessities Furnished Husband*, 11 ALR4th 1160 (1982).
- Annotation, *Husband's Liability to Third Person for Necessities Furnished to Wife Separated from Him*, 60 ALR2d 7 (1958).

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
Chapter 33. Alimony in General
 - § 33.1. Definition
 - § 33.36. Order for support of mentally ill spouse
 - § 33.37. —Time for entry of order
 - § 33.38. —Parties who may apply for order
 - § 33.39. Order for support of mentally ill spouse—Duration of obligation
- Chapter 34 Modification of Alimony Provisions

34.12 Changes in health of the parties

- Barbara Kahn Stark, *Dissolution of Marriage*, CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL, XVI-13 to XVI-14 (Peter L. Costas, managing ed., 1998).

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Table 1 Proof of Abandonment of the Marriage Without Cause

Proof that spouse wilfully abandoned marital domicile without good cause, thereby precluding award of alimony, spousal support, or separate maintenance. 27 POF2d 737 (1981)	
A. Elements of Proof	
§ 5	Guide and checklist
B. Testimony of Complaining Spouse (Cross-Examination)	
§ 6	Voluntary departure from marital domicile
§ 7	Absence of reasonable cause for separation
C. Testimony of Defendant	
§ 8	Absence of reasonable cause for separation
§ 9	Voluntary departure from marital domicile
§ 10	Intent not to resume cohabitation
§ 11	Absence of consent to separation

§ 1.2 Alimony Pendente Lite

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SCOPE:

Bibliographic resources relating to the grounds and procedures used for applying for and extending alimony pendente lite (temporary alimony while court proceeding is pending). Also includes the effect of prenuptial agreements on alimony.

DEFINITION:

- **ALIMONY PENDENTE LITE:** “ means alimony or maintenance ‘pending litigation’ and is payable during the pendency of a divorce proceeding so as to enable a dependent spouse to proceed with or defend against the action.” Jayne v. Jayne, 663 A.2d 169, 176 (Pa. Super. 1995).
- **PURPOSE:** “is to provide for wife . . . they are living apart from her husband pending a determination of the issues in the case.” Fitzgerald v. Fitzgerald, 169 Conn. 147, 151, 362 A.2d 889 (1975).
- “There is no absolute right to alimony.” Weinstein v. Weinstein, 18 Conn. App. 622, 637, 561 A.2d 443 (1989).

STATUTES:

- CONN. GEN. STAT. (2001)
 - § 46b-82. Factors used in determining an alimony award
 - § 46b-83. **Alimony pendente lite.** At any time after the return day of a complaint under section 46b-45 or 46b-56 or after filing an application under section 46b-61, and after hearing, alimony and support pendente lite may be awarded to either of the parties from the date of the filing of an application therefor with the Superior Court. Full credit shall be given for all sums paid to one party by the other from the date of the filing of such a motion to the date of rendition of such order. In making an order for alimony pendente lite the court shall consider all factors enumerated in section 46b-82, except the grounds for the complaint or cross complaint, to be considered with respect to a permanent award of alimony. In making an order for support pendente lite the court shall consider all factors enumerated in section 46b-84. The court may also award exclusive use of the family home or any other dwelling unit which is available for use as a residence pendente lite to either of the parties as is just and equitable without regard to the respective interests of the parties in the property.

LEGISLATIVE:

- 1999 CONN. ACTS 215 § 616 (Reg. Sess.).

COURT RULES:

- CONNECTICUT PRACTICE BOOK (2002 EDITION)
 - Chapter 25. Superior Court—Procedure in family matters
 - § 25-24. **Motions.**
 - (a). Any appropriate party may move for alimony
 - (b). Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a post judgment motion
 - § 25-29. Notice of orders for support or alimony
 - § 25-30. Statements to be filed

FORMS:

- WYNN AND LUBELL, HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY

LAWYER.

VI-B-1. Motion for alimony pendente lite, p. 99

VI-B-2. Motion for alimony, child support, custody and counsel fees, pendente lite, pp. 100-101

VI-B-3. Motion for determination of alimony and child support, pp. 102-103

VI-B-5. Motion to extend alimony pendente lite, p. 105

- 8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
 - § 32.3. Motion for alimony and other payments pendente lite—Form
 - § 32.4. Motion for alimony and counsel fees pendente lite—Form
 - § 32.5. Motion for determination of alimony and child support—Form
- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
 - Motion for alimony pendente lite, p. 373
 - Checklist of temporary alimony and first year filing status, p. 82
 - Sample wording for temporary agreements, pp. 85-88

COURT CASES
(Connecticut):

- Wolf v. Wolf, 39 Conn. App. 162, 164-165, 664 A.2d 315 (1995). *Factors considered in awarding alimony.*
- Siracusa v. Siracusa, 30 Conn. App. 560, 566, 621 A.2d 309 (1993). "The court looked specifically at the occupations, skills and employability of the parties. It found that the plaintiff, with three years of college education, had worked as a waitress, had obtained her real estate agent's license, and had some experience in the moving business. The defendant, a college graduate, is the chief executive officer of a moving and storage company he established twelve years ago. The trial court found that '[f]rom the nature of the occupations and skills of the parties . . . [the] defendant has a far greater opportunity than does the plaintiff for the future acquisition of capital assets or income.'"
- Paddock v. Paddock, 22 Conn. App. 367, 577 A.2d 1087 (1990). *Inability to pay alimony.*
- Martone v. Martone, 28 Conn. App. 208, 611 A.2d 896, cert. granted in part 224 Conn. 909 (1992). *Duty to support - In general.*

DIGESTS:

- WEST KEY NUMBERS: *Divorce* # 208-228
- DOWLING'S DIGEST: *Dissolution of marriage* § 15
- CONNECTICUT FAMILY LAW CITATIONS: *Alimony—Pendente Lite*

ENCYCLOPEDIAS:

- 27B C.J.S. *Divorce* (1986).
 - §§ 306-507. Alimony, maintenance and support, and other allowances
 - §§ 315-342. Temporary alimony
- 24A AM. JUR. 2D *Divorce and Separation* (1998).
 - §§ 652-696. Temporary alimony
- Jean E. Maess, Annotation, *Court's Authority To Award Temporary Alimony Or Suit Money In Action For Divorce, Separate Maintenance, Or Alimony Where The Existence Of A Valid Marriage Is Contested*, 34 ALR4th 814 (1984).
- Gary L. Hall, Annotation, *Wife's Possession Of Independence Means As Affecting Her Right To Alimony Pendente Lite*, 60 ALR3d 728 (1974).

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).

Chapter 32. Temporary Alimony

§ 32.2. Time and method for raising claim

§ 32.6. Hearing

§ 32.7. Amount of award; factors to be considered

§ 32.8. Order, stipulation on voluntary compliance

§ 32.11. Effect of prenuptial or other agreement relating to alimony

- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
 - Temporary support including tax considerations, pp. 80-83, 225
 - Pendente lite orders, procedures, pp. 296-297

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§ 1.3 Modifying Alimony

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SCOPE:

Bibliographic resources relating to the grounds and procedures for modifying alimony in Connecticut.

DEFINITION:

- **Cohabitation:** “Section 46b-86 (b), known as the ‘cohabitation statute,’ provides in pertinent part that a court may ‘modify such judgment and suspend, reduce or terminate the payment of periodic alimony upon a showing that the party receiving the periodic alimony is living with another person under circumstances which the court finds should result in the modification . . . of alimony because the living arrangements cause such a change of circumstances as to alter the financial needs of that party.’” D’Ascanio v. D’Ascanio, 237 Conn. 481, 485-486, 678 A.2d 469 (1996).
- **Substantial change in circumstances:** “When presented with a motion for modification, a court must first determine whether there has been a substantial change in the financial circumstances of one or both of the parties Second, if the court finds a substantial change in circumstances, it may properly consider the motion and, on the basis of the § 46b-82 criteria, make an order for modification The court has the authority to issue a modification only if it conforms the order to the distinct and definite changes in the circumstances of the parties.” Crowley v. Crowley, 46 Conn. App. 87, 92, 699 A.2d 1029 (1997).

STATUTES:

- CONN. GEN. STAT. (2001)
 - § 46b-8. Motion for modification combined with motion for contempt
 - § 46b-86. Modification of Alimony

COURT RULES:

- CONNECTICUT PRACTICE BOOK (2002 EDITION)
 - Chapter 25 Superior Court—Procedure in family matters
 - § 25-24(b) “. . . . Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a post judgment motion.”
 - § 25-26. Modification of alimony
 - § 25-30. Statements to be filed

FORMS:

- [Official Forms](#)
 - JD-FM-174. Motion for modification

COURT CASES

(Connecticut):

- Distefano v. Distefano, 67 Conn. App. 628, 633, 787 A.2d 675 (2002). “In accordance with General Statutes § 46b-86 (b) and the holding in [DeMaria](#), before the payment of alimony can be modified or terminated, two requirements must be established. First, it must be shown that the party receiving the alimony is cohabitating with another individual. If it is proven that there is cohabitation, the party seeking to alter the terms of the alimony payments must then establish that the recipient's financial needs have been altered as a result of the cohabitation.”
- Clark v. Clark, 66 Conn. App. 657, 665, 785 A.2d 1162 (2001). “The court is not required, however, to consider all of the § 46b-82 criteria when modification of alimony is sought pursuant to a dissolution agreement.”
- DeMaria v. DeMaria, 247 Conn. 715, 720, 724 A.2d 1088 (1999). “Because,

however, ‘living with another’ person without financial benefit did not establish sufficient reason to refashion an award of alimony under General Statutes § 46b-81, the legislature imposed the additional requirement that the party making alimony payments prove that the living arrangement has resulted in a change in circumstances that alters the financial needs of the alimony recipient. Therefore, this additional requirement, in effect, serves as a limitation. Pursuant to § 46b-86 (b), the nonmarital union must be one with attendant financial consequences before the trial court may alter an award of alimony.”

- Simmons v. Simmons, 244 Conn. 158, 179, 708 A.2d 949 (1998). “We continue mindful of the substantial deference that this court affords the decisions of the trial court in a dissolution action We consider this case, however, to present one of those rare situations in which we must conclude that there was an abuse of that discretion.”
- Crowley v. Crowley, 46 Conn. App. 87, 699 A.2d 1029 (1997). **Interest on modified retroactive alimony orders.**
- Sheehan v. Balasic, 46 Conn. App. 327, 331, 699 A.2d 1036 (1997). “This statute [46b-86] clearly permits a trial court to make periodic awards of alimony nonmodifiable.”
- Borkowski v. Borkowski, 228 Conn. 729, 736, 638 A.2d 1060 (1994). “‘In general the same sorts of [criteria] are relevant in deciding whether the decree may be modified as are relevant in making the initial award of alimony. They have chiefly to do with the needs and financial resources of the parties.’ . . . More specifically, these criteria, outlined in General Statutes 46b-82, require the court to consider the needs and financial resources of each of the parties and their children, as well as such factors as the causes for the dissolution of the marriage and the age, health, station, occupation, employability and amount and sources of income of the parties.”
- Dooley v. Dooley, 32 Conn. App. 863, 632 A.2d 712 (1993). “Alimony pendente lite may not be modified unless there has been a substantial change in circumstances since the date of the award.”
- Simms v. Simms, 25 Conn. App. 231, 234, 593 A.2d 161 (1991). “a dramatic increase in the income of one of the parties may constitute a substantial change in circumstances”
- Cummock v. Cummock, 188 Conn. 30, 448 A.2d 204 (1982).
- Scoville v. Scoville, 179 Conn. 277, 279, 426 A.2d 271 (1979). “Lump sum alimony, unlike periodic alimony, is a final judgment which cannot be modified even should there be a substantial change in circumstances”
- Sanchione v. Sanchione, 173 Conn. 397, 404, 378 A.2d 522 (1977). *Unpaid installments and modification*
- Gray v. Gray, 12 Conn. Law Tribune, no. 3, p. 25 (1/20/86, Superior Court, Hartford). *Alimony and remarriage*

DIGESTS:

- WEST KEY NUMBERS: *Divorce* #245
- DOWLING’S DIGEST: *Dissolution of marriage* §19
- CONNECTICUT FAMILY LAW CITATIONS:
 Alimony—Judgments, Orders, and Decrees—Modification
 Alimony—nonmodifiable
 Alimony—permanent

ENCYCLOPEDIAS:

- 24 AM. JUR. 2D *Divorce and Separation* (1998).
 §§ 809-847. Modification of alimony awards
- 27B C.J.S. *Divorce* (1986).
 §§ 401-415. Modification or vacation of allowance

§§ 481-487. Proceedings for modification or vacation of order or decree

- James Lockhart, *Cause Of Action To Obtain Increase In Amount Or Duration Of Alimony Based On Changed Financial Circumstances Of Parties*, 19 COA 1 (1989).
- James Lockhart, *Cause Of Action For Modification Of Amount Of Permanent Alimony Based On Changed Financial Circumstances Of Party Making Payment*, 12 COA 853 (1987).
- *Modification Of Spousal Support Award*, 32 POF2d 491(1982).
 - §§ 12-20. Proof of supported spouse's right to increased support
 - §§ 21-27. Proof of supporting spouse's right to decrease or terminate support
- *Modification Of Spousal Support On Ground Of Supported Spouse's Cohabitation*, 6 POF3d 765 (1989).
 - § 17. Checklist—Proving cohabitation
 - §§ 18-19. Model interrogatories
 - §§ 20-45. Proof of cohabitation as basis of support modification
- Robin Cheryl Miller, Annotation, *Effect of Same Sex Relationship On Right To Spousal Support*, 73 ALR5th 599 (1999).
- Annotation, *Alimony As Affected By Recipient Spouse's Remarriage, In Absence Of Controlling Specific Statute*, 47 ALR5th 129 (1997).
- Karen A. Cusenbary, Annotation, *Decrease In Income Of Obligor Spouse Following Voluntary Termination Of Employment As Basis For Modification Of Child Support Award*, 39 ALR5th 1 (1996).
- Frank J. Wozniak, Annotation, *Loss Of Income Due To Incarceration As Affecting Child Support Obligation*, 27 ALR5th 540 (1995).
- Christopher Vaeth, Annotation, *Consideration Of Obligated Spouse's Earnings From Overtime Or "Second Job" Held In Addition To Regular Full-Time Employment In Fixing Alimony Or Child Support Awards*, 17 ALR5th 143 (1994).
- Claudia Catalano, Annotation, *Spouse's Right To Set Off Debt Owed By Other Spouse Against Accrued Spousal Or Child Support Payments*, 11 ALR5th 259 (1993).
- Diane M. Allen, Annotation, *Divorced Or Separated Spouse's Living With Member Of Opposite Sex As Affecting Other Spouse's Obligation Of Alimony Or Support Under Separation Agreement*, 47 ALR4th 38 (1986).
- Jay M. Zitter, Annotation, *Validity And Enforceability Of Escalation Clause In Divorce Decree Relating To Alimony And Child Support*, 19 ALR4th 830 (1983).
- Annotation, *Divorced Woman's Subsequent Sexual Relations Or Misconduct As Warranting, Alone Or With Other Circumstances, Modification Of Alimony Decree*, 98 ALR3d 453 (1980).
- John J. Michalik, Annotation, *Divorce: power of court to modify decree for alimony or support of spouse which was based on agreement of parties*, 61 ALR3d 520 (1975).
- Emile F. Short, Annotation, *Retrospective Increase In Allowance For Alimony, Separate Maintenance, Or Support*, 52 ALR3d 156 (1973).
- 8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
 - Chapter 35. Modification of Alimony Provisions
 - § 35.2. Necessity of changed circumstances
 - § 35.3. Modifiability of lump sum award

**TEXTS &
TREATISES:**

- § 35.4. Modification where no alimony is originally granted or reserved
- § 35.5. Modifications to change duration of alimony award
- § 35.6. Effect of provisions limiting or prohibiting modification
- § 35.7. Effect of modification on accrued alimony
- § 35.10. Facts justifying modification
- § 35.11. Inadequacy of original order
- § 35.12. Changes in health, cost of living, earnings
- § 35.13. Child's increased earnings, expenses or needs
- § 35.14. Changes in custody or child support
- § 35.15. Increases in cost of living
- § 35.16. Changes in earnings or assets of the payor
- § 35.17. Changes in earnings or assets of the payee
- § 35.18. Loss of employment
- § 35.19. Effects of general business conditions
- § 35.20. Rehabilitation after divorce
- § 35.21. Remarriage of payor
- § 35.22. Remarriage of payee
- § 35.23. Misconduct of the party receiving alimony
- § 35.24. Criteria to be considered for modification
- § 35.25. Modification of alimony based upon cohabitation
- § 35.26. Proof of cohabitation
- § 35.27. Relief available based upon cohabitation
- § 35.28. Burden of proof and notice requirement
- § 35.29. Modification and appeal distinguished
- § 35.30. Effect of Child Support Guidelines
- 2 FAMILY LAW PRACTICE IN CONNECTICUT (1996).
Chapter 9. Alimony in Divorce—Spousal Support
§ 9.14. Cohabitation considerations
- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
Chapter 10. Alimony.
Modifying, pp. 230, 347-348
Reductions, p. 230
- Barbara Kahn Stark, *Dissolution of Marriage, in* CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL, XVI-13 to XVI-14 (Peter L. Costas, managing ed., 1998).
- Ralph Dupont, 2 DUPONT ON CONNECTICUT CIVIL PRACTICE (2000) §§ 25-26.1 to 25-26.3.

LAW REVIEWS:

- Cynthia George, *Combating The Effects Of Inflation On Alimony And Child Support Orders*, 75 CONNECTICUT BAR JOURNAL 223 (1983).

COMPILER:

Lawrence Cheeseman , Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560.

§ 1.4 Factors Considered in Awarding and Modifying

2002 Edition

- SCOPE:** Factors used by the courts in making or modifying alimony in Connecticut including factors specified in the CONN. GEN. STAT. (2001).
- DEFINITION:**
- “The court is to consider these factors in making an award of alimony, but it need not give each factor equal weight.” Kane v. Parry, 24 Conn. App. 307, 313, 588 A.2d 227 (1991).
- STATUTES:**
- CONN. GEN. STAT. (2001).
§ 46b-82. Factors used in determining an alimony award
- CASES:**
- Lowe v. Lowe, 58 Conn. App. 805, 814, 755 A.2d 338 (2000). “In the present case, it was within the discretion of the court to determine that the parties enjoyed a station of life during their marriage that justified an award of alimony to the defendant . . . Furthermore, the fact that the court reaffirmed the prior award of alimony and increased it due to the plaintiff’s fraud implies that the court determined that there was a need for alimony, and that such an award was just and equitable.”
 - Simmons v. Simmons, 244 Conn. 158, 179, 708 A.2d 949 (1998). “We continue mindful of the substantial deference that this court affords the decisions of the trial court in a dissolution action . . . We consider this case, however, to present one of those rare situations in which we must conclude that there was an abuse of that discretion.”
 - Caffee v. Caffee, 240 Conn. 79, 82, 689 A.2d 468 (1997). “The court must consider *all* of these criteria.”
 - Durkin v. Durkin, 43 Conn. App. 659, 661, 685 A.2d 344 (1996). “Our review of the record, transcript and briefs reveals that the trial court properly considered the statutory criteria, the evidence and the financial affidavits of the parties. Accordingly, we conclude that the trial court did not abuse its discretion by finding the defendant at fault for the breakdown of the marriage and ordering him to pay periodic alimony.”
 - Thomas v. Thomas, 159 Conn. 477, 486, 271 A.2d 62 (1970). “Our alimony statutes does not recognize any absolute right to alimony.”
 - Leveston v. Leveston, 182 Conn. 19, 22, 437 A.2d 819 (1980). “The trial court is required to consider the statutory criteria but ‘is not required to give equal weight to each of the specified items.’”
 - Valante v. Valante, 180 Conn. 528, 531, 429 A.2d 964 (1980). “. . . no single criteria is preferred over all the others. In weighing the factors in a given case the court is not required to give equal weight to each of the specified items.”
 - Gallo v. Gallo, 184 Conn. 36, 50, 440 A.2d 782 (1981). “Each statutory factor need not be discussed with equal depth in the memorandum of decision.”
- DIGESTS:**
- WEST KEY NUMBERS:: *Divorce*

#235 Permanent alimony. Discretion of the court
#237_____. Grounds.

ENCYCLOPEDIAS:

- 24A AM. JUR. 2D *Divorce & Separation* (1998).
§§ 652-696. Temporary alimony
§§ 750-852. Permanent alimony
§§ 809-847. Modification of alimony awards
- 27B C.J.S. *Divorce* (1986).
§§ 367-368. Temporary alimony
§§ 401-415. Permanent alimony
§§ 481-487. Proceedings for modification or vacation of order or decree
- *Spousal Support On Termination Of Marriage*, 32 POF2d 439 (1982).
§§ 10-24. Proof of right to spousal support and factors affecting amount of support
- *Wife's Ability to Support Herself*, 2 P.O.F. 2d 99 (1974).
§§ 5-14. Proof of former wife's independent means of support [[Table 3](#)]
§§ 15-22. Proof of former wife's ability to earn own support [[Table 4](#)]
- Genna Rosten, Annotation, *Consideration Of Obligor's Personal-Injury Recovery Or Settlement In Fixing Alimony Or Child Support*, 59 ALR5th 489 (1998).
- Jay M. Zitter, Annotation, *Excessive Or Inadequacy Of Lump-Sum Alimony Award*, 49 ALR5th 441 (1997).
- Frank J. Wozniak, Annotation, *Treatment Of Depreciation Expenses Claimed For Tax Or Accounting Purposes In Determining Ability To Pay Child Or Spousal Support*, 28 ALR5th 46 (1995).
- Christopher Vaeth, Annotation, *Consideration Of Obligated Spouse's Earnings From Overtime Or "Second Job" Held In Addition To Regular Full-Time Employment In Fixing Alimony Or Child Support Awards*, 17 ALR5th 143 (1994).
- Gavin L. Phillips, Annotation, *What Constitutes Order Made Pursuant To State Domestic Relations Law For Purposes Of Qualified Domestic Relations Order Exception To Antialienation Provision Of Employee Retirement Income Security Act Of 1974 (29 USCS § 1056(d))*, 79 ALR4th 1081 (1990).
- Jay M. Zitter, Annotation, *Validity And Enforceability Of Escalation Clause In Divorce Decree Relating To Alimony And Child Support*, 19 ALR4th 830 (1983).
- Michael G. Walsh, Annotation, *Spouse's Professional Degree Or License As Marital Property For Purpose Of Alimony, Support Or Property Settlement*, 4 ALR4th 1294 (1981).
- Jay M. Zitter, Annotation, *Excessiveness Or Adequacy Of Amount Of Money Awarded As Permanent Alimony Following Divorce*, 28 ALR4th 786 (1984).
- Ferdinand S. Tinio, Annotation, *Divorce Or Separation: Consideration Of Tax Liability Or Consequences In Determining Alimony Or Property Settlement Provisions*, 51 ALR3d 461 (1973).
- Kristine Cordier Karnezis, Annotation, *Fault As Consideration In Alimony, Spousal Support, Or Property Division Awards Pursuant To No-Fault Divorce*, 86 ALR3d 1116 (1978).
- Gary L. Hall, Annotation, *Wife's Possession Of Independence Means As Affecting Her Right To Alimony Pendente Lite*, 60 ALR3d 728 (1974).

**TEXTS &
TREATISES:**

- 8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000)
 - Chapter 33. Alimony in General
 - § 33.4. Factors for consideration
 - § 33.5. Length of marriage
 - § 33.6. Causes for dissolution
 - § 33.7. Ages of the parties
 - § 33.8. Health of the parties
 - § 33.9. Station of the parties
 - § 33.10. Occupation
 - § 33.11. Amount and source of income
 - § 33.12. Vocational skills and employability of the parties
 - § 33.13. Estates of the parties
 - § 33.14. Liabilities and needs of the parties
 - § 33.15. Property division
 - § 33.16. Desirability of custodial parent securing employment
 - § 33.17. Other factors considered
- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE, 1998.
 - Chapter 10 Alimony.
 - factors (CONN. GEN. STAT. §46b-82 (2001), p. 218.

COMPILER:

Lawrence Cheeseman , Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560.

Table 2 Statutory Factors in Awarding Alimony

Statutory Factors in Awarding Alimony		
Factors	Rutkin*	LPH**
Length of the marriage	§ 33.5	§§ 9.8-9.11
Causes for the annulment, dissolution of marriage or legal separation	§ 33.6	
Age	§ 33.7	§ 9.11
Health	§ 33.8	§ 9.11
Station	§ 33.9	
Occupation	§ 33.10	§ 9.10
Amount and sources of income	§ 33.11	
Vocation skills	§ 33.12	§ 9.10
Employability	§ 33.12	§ 9.10
Estate	§ 33.13	§ 9.11
Needs of each of the parties	§ 33.14	
In the case of a parent to whom the custody of minor children has been awarded, the desirability of such parent's employment	§ 33.16	§ 9.11

* 8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).

** J.W. Hill, *Alimony in Divorce—Spousal Support*, 2 FAMILY LAW PRACTICE IN CONNECTICUT (1996).

Table 3 Wife's Ability to Support Herself

Proof Of Former Wife's Independent Means Of Support 59).	
A. Elements of Proof	
§ 5	Guide and checklist
B. Testimony Of Former Wife's Independent Means Of Support	
§ 6	Earning of income from employment
§ 7	Increase in income from employment
§ 8	Possession of substantial bank accounts
§ 9	Interest in income-producing real property
§ 10	Ownership of valuable personal property
§ 11	Investment in securities
§ 12	Receipt of inheritance
§ 13	Status as beneficiary of trust
§ 14	Small number of debts

Table 4 Proof of Former Wife's Ability to Earn Own Support

Proof of Former Wife's Ability to Earn Own Support 2 POF2d 99 (1959).	
A. Elements of Proof	
§ 15	Guide and checklist
B. Testimony of Former Wife	
§ 16	Lack of serious effort to find employment
§ 17	High level of education
§ 18	Vocational training
§ 19	Employment prior to marriage
§ 20	Age conducive to employment
§ 21	Good health
§ 22	Abundance of free time

Table 5 Proof of Right to Spousal Support and Factors Affecting Amount of Support

Proof of Right to Spousal Support and Factors Affecting Amount of Support 32 P.O.F. 2d 439	
A. Elements of Proof	
§ 10	Guide and checklist
B. Testimony of Spouse Seeking Support	
§ 11	Marriages and children
§ 12	Age and health
§ 13	Education and employment history
§ 14	Employment history and salary of supporting spouse
§ 15	Ownership of realty
§ 16	Bank accounts and cash
§ 17	Personal property and debts of spouse seeking support
§ 18	Personal property of supporting spouse
§ 19	Intangible property
§ 20	Monthly income and regular expenses
§ 21	Medical expenses
§ 22	Misconduct of supporting spouse
§ 23	Misconduct of supporting spouse
C. Testimony of Corroborating Witness	
§ 24	Misconduct of supporting spouse

Table 6 Statutory Factors and Appeals of Alimony Awards

2002	<u>Greco v. Greco</u> , 70 Conn. App. 735, 740, __ A.2d __	“The court did not abuse its discretion in awarding the plaintiff 67 percent of the assets. Despite the defendant's contentions to the contrary and his own review of the criteria set forth in § 46b-81, we cannot construe the court's award as an abuse of discretion in light of the court's finding that the defendant's infidelity was the cause of the breakdown of the marriage. That is a factor that the court was required to consider pursuant to § 46b-81.”
2002	<u>Zahringer v. Zahringer</u> , 69 Conn. App. 251, 260-261, 793 A.2d 1214 (2002).	The present claim is similar to the defendant's argument in <i>Panganiban v. Panganiban</i> , 54 Conn. App. 634, 736 A.2d 190, cert. denied, 251 Conn. 920, 742 A.2d 359 (1999). In <i>Panganiban</i> , the defendant claimed that the court's initial alimony award was "far above anything to which the plaintiff had been accustomed, based on her station in life and standard of living." <i>Id.</i> , 642. In concluding that the trial court did not abuse its discretion by setting this award, we stated that "[i]t is hornbook law that what a spouse can afford to pay for support and alimony is a material consideration in the court's determination as to what is a proper order." (Internal quotation marks omitted.) <i>Id.</i> , 642-43.
1998	<u>Simmons v. Simmons</u> , 244 Conn. 158, 179, 708 A.2d 949	“We continue mindful of the substantial deference that this court affords the decisions of the trial court in a dissolution action We consider this case, however, to present one of those rare situations in which we must conclude that there was an abuse of that discretion.”
1995	<u>Wolf v. Wolf</u> , 39 Conn. App. 162, 169, 664 A.2d 315	“The trial court noted in its decision that it was basing the alimony award on the defendant’s earning capacity and not necessarily on her stated desires regarding employment.”
1993	<u>Siracusa v. Siracusa</u> , 30 Conn. App. 560, 621 A.2d 309	“While a trial court must consider a number of factors in awarding alimony and distributing the assets of the parties, and my exercise broad discretion in that consideration . . . it need not recite each factor in its decision, it is sufficient that the memorandum of decision ‘at least reflect a proper consideration and weighing of the factors set forth in the statute.’

1991	<u>Graham v. Graham</u> , 25 Conn. App. 41, 45, 592 A.2d 424	“It is axomatic that trial court are vested with broad and liberal discretion in fashioning orders of custody and the type, duration, and amount of alimony and support that is proper apply to each are the standards and guidelines of the General Statutes.”
1988	<u>DeVellis v. DeVellis</u> , 15 Conn. App. 318, 321, 544 A.2d 639	“A trial court may exercise broad discretion in awarding alimony as long as it considers all relevant statutory criteria.”
1988	<u>Elliot v. Elliot</u> , 14 Conn. App. 541, 547, 541 A.2d 905	“While the trial court must consider each of these factors, no single factor is preferred over the others, and the court is accorded wide lattitude in varying the weight placed upon each item under the particular circumstances of each case.”

§ 1.5 Enforcing Alimony

2002 Edition

- SCOPE:** Bibliographic resources relating to procedures for enforcing alimony in Connecticut including defenses.
- SEE ALSO:**
- [§ 6 Alimony and a Nonresident Party](#) for enforcement of out-of-state alimony awards
- DEFINITION:**
- **CONTEMPT:** "is a disobedience to the rules and orders of a court which has power to punish for such an offense A **civil contempt** is one in which the conduct constituting the contempt is directed against some civil right of an opposing party and the proceeding is initiated by him." (emphasis added) *Stoner v. Stoner*, 163 Conn. 345, 359, 307 A.2d 146 (1972).
- STATUTES:**
- CONN. GEN. STAT. (2001)
 - § 46b-8. Motion for modification combined with motion for contempt
 - § 46b-231(m). Family Support Magistrates' power and duties. Spousal support in IV-D cases.
- COURT RULES:**
- CONNECTICUT PRACTICE BOOK (2002 EDITION)
 - Chapter 25 Superior Court—Procedure in family matters
 - § 25-26. Modification of alimony, arrearage
 - § 25-27. Motion for contempt
- FORMS:**
- [Official Forms](#)
 - JD-FM-173. Motion for contempt
 - 2 CONNECTICUT PRACTICE BOOK (1997).
 - § 33.7 Application for contempt citation and order to show cause
 - § 33.9 Schedule for production at hearing
- COURT CASES**
- *Issler v. Issler*, 50 Conn. App. 58, 65, 716 A.2d 938 (1998). "While an equivocal court order will not support a finding of contempt, this is not the case here."
 - *Eldridge v. Eldridge*, 244 Conn. 523, 529, 710 A.2d 757 (1998). "In order to constitute contempt, a party's conduct must be wilful A good faith dispute on legitimate misunderstanding of the terms of an alimony or support obligation may prevent a finding that the payor's nonpayment was wilful."
 - *Castro v. Castro*, 31 Conn. App. 761, 627 A.2d 452 (1993).
 - *Perry v. Perry*, 222 Conn. 799, 805, 611 A.2d 400 (1992). "inability to pay an order is a defense to a charge of contempt however, . . . the defendant has the burden of proof on this issue"
 - *Papcun v. Papcun*, 181 Conn. 618, 620, 436 A.2d 608 (1980). "contention that the plaintiff is barred by laches from collecting the arrearage."
 - *Farrell v. Farrell*, 36 Conn. App. 305, 650 A.2d 608 (1994). *Equitable decree voiding certain fraudulent conveyances of property*.
 - *Sturtevant v. Sturtevant*, 146 Conn. 644, 153 A.2d 828 (1959). *Out of state decree in Connecticut court*.
- DIGESTS:**
- WEST KEY NUMBERS *Divorce* §§ 260-277
 - § 269(9). Contempt proceeding. Defenses and excuse for nonpayment or

non compliance with order

- DOWLING'S DIGEST *Dissolution of marriage* § 18
- CONNECTICUT FAMILY LAW CITATIONS
 - Alimony—Arrearages*
 - Alimony—Contempt*
 - Alimony—Defenses to payments of arrearages, laches and equitable estoppel as*

ENCYCLOPEDIAS:

- 24 AM. JUR. 2D. *Divorce and Separation* (1998).
 - §§ 860-928. Enforcement of judgment, decree, or order; Provisional remedies
 - §§ 908-928. Contempt proceedings
- 27B C.J.S. *Divorce* (1986).
 - §§ 445-480. Enforcement of order or decree
 - § 451. Contempt proceedings
- Elizabeth A. Jenkins, Annotation, *Validity And Construction Of Provisions For Arbitration Of Disputes As To Alimony Or Support Payments Or Child Visitation Or Custody Matters*, 38 ALR5th 69 (1996).
- Gavin L. Phillips, Annotation, *Death Of Obligor Spouse As Affecting Alimony*, 79 ALR4th 19 (1990).
- Jay M. Zitter, Annotation, *Validity And Enforceability Of Escalation Clause In Divorce Decree Relating To Alimony And Child Support*, 19 ALR4th 830 (1983).
- John C. Williams, Annotation, *Laches Or Acquiescence As Defense, So As To Bar Recovery Of Arrearages Of Permanent Alimony Or Child Support*, 5 ALR4th 1015 (1981).

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000)
 - Chapter 34. Enforcement of alimony and child support provisions of judgment
 - § 34.4. Contempt proceedings generally
 - § 34.5. Contempt procedure
 - §33.8 Hearing
 - §33.10 Necessity of counsel in contempt proceedings
 - §33.11 Excuse or defense to contempt claim
 - §33.12 Inability to comply
 - §33.14 Laches and/or estoppel as a defense to contempt
 - §33.15 Estoppel—in kind payments or other modifications
 - §33.16 Misconduct by the complaining party
 - §33.17 Contempt penalties and terms of payment
 - §33.18 Contempt penalties—incarceration
 - §33.19 Criminal action based on non-payment of alimony
 - §33.20 Enforcement of alimony against property
 - §33.27 Claims for interest and/or damages
- JOEL M. KAYE ET AL. 3 CONNECTICUT PRACTICE BOOK, *Authors' Comments* following Form 506.2, pp. 154-159 (1996).

LAW REVIEWS:

- C. Forzani and B.G. Jenkins, *Enforcement Of Alimony Orders*, 4 CONNECTICUT FAMILY LAWYER 25, 28-30 (Fall 1989).

COMPILER:

Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560.

Table 7 IV-D Spousal Support

Family Support Magistrate Division	
§ 46b-231(b)	<p>Definitions:</p> <p>(6) "Family Support Magistrate Division" means a division of the Superior Court created by this section for the purpose of establishing and enforcing child and spousal support in IV-D cases and in cases brought pursuant to sections 46b-212 to 46b-213v, inclusive, utilizing quasi-judicial proceedings;</p> <p>(7) "Family support magistrate" means a person, appointed as provided in subsection (f) of this section to establish and enforce child and spousal support orders;</p>
§ 46b-215(a)(3)	<p>[Procedures] “. . . Proceedings to obtain orders of support <u>under this section</u> shall be commenced by the service on the liable person or persons of a verified petition with summons and order. . . .”</p>
§ 46b-231(m)	<ul style="list-style-type: none"> • Magistrates' powers and duties. The Chief Family Support Magistrate and the family support magistrates shall have the powers and duties enumerated in this subsection. <ul style="list-style-type: none"> (1) A family support magistrate in IV-D support cases may compel the attendance of witnesses or the obligor under a summons . . . subpoena . . . citation for failure to obey an order of a family support magistrate or the assistant clerk of the Family Support Magistrate Division and fails to appear, a family support magistrate may issue a capias mittimus directed to some proper officer to arrest the obligor or the witness and bring him before a family support magistrate. [emphasis added] (2) Family support magistrates shall hear and determine matters involving child and spousal support in IV-D support cases (3) Family support magistrates shall review and approve or modify all agreements for support in IV-D support cases filed with the Family Support Magistrate Division (4) Motions for modification of existing child and spousal support orders entered by the Superior Court in IV-D support cases, including motions to modify existing child and spousal support orders entered in actions brought pursuant to chapter 815j [Dissolution of marriage, legal separation and annulment], shall be brought in the Family Support Magistrate Division and decided by a family support magistrate. . . . (7) Family support magistrates shall enforce orders for child and spousal support entered by such family support magistrate and by the Superior Court in IV-D support cases by citing an obligor for contempt
§ 46b-231(n)	<p>[Appeals] of a final decision of a family support magistrate]</p>
§ 46b-212a	<p>Uniform Interstate Family Support Act.</p> <p>(19) “Spousal-support order” means a support order for a spouse or former spouse of the obligor.</p> <p>(23) “Tribunal” means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine paternity.</p>

§ 46b-212b	The Superior Court and the Family Support Magistrate Division of the Superior Court are the tribunals of this state. The Family Support Magistrate Division is the tribunal for the filings of petitions under sections 46b-212 to 46b-213v, inclusive, of this act, provided clerical, administrative and other nonjudicial functions in proceedings before the Family Support Magistrate Division may be performed by the Support Enforcement Division of the Superior Court.
<p align="center">Support Enforcement Officers of the Support Enforcement Division of the Superior Court</p>	
§ 46b-231(s)	<p>(1) Supervise the payment of any child or spousal support order made by a family support magistrate</p> <p>(2) In non-TANF cases, have the authority to bring petitions for support orders pursuant to 46b-215, file agreements for support . . . and bring applications for show cause orders . . . enforce foreign support orders registered with the Family Support Magistrate Division . . . and file agreements for support</p> <p>(3) In connection with any order or agreement entered by, or filed with, the Family Support Magistrate Division, or any order entered by the Superior Court in a IV-D support case upon order, investigate the financial situation of the parties and report findings</p>
<p align="center">Attorney General</p>	
§ 46b-231(t)	<p>(1) Represent the interest of the state in all actions for child support or spousal support in all cases in which the state is furnishing or has furnished aid or care to one of the parties to the action or a child of one of the parties;</p> <p>(2) In interstate support enforcement . . . provide necessary legal services on behalf of the support enforcement agency in providing services to a petitioner;</p> <p>(3) Represent the IV-D agency in providing support enforcement services in non-TANF IV-D support cases</p>
<p align="center">Department of Social Services</p>	
§ 46b-231(u)	<p>The Department of Social Services may in IV-D cases</p> <p>(A) bring petitions for support orders . . . ;</p> <p>(B) obtain acknowledgments of paternity;</p> <p>(C) bring applications for show cause orders . . . ;</p> <p>(D) file agreements for support with the assistant clerk of the Family Support Magistrate Division.</p>

§ 1.6 Alimony and a Nonresident Party

2002 Edition

- SCOPE:** Bibliographic resources relating to alimony and a nonresident party including enforcement of alimony decree from another state in Connecticut
- DEFINITIONS:**
- Spousal-support order “means a support order for a spouse or former spouse of the obligor.” CONN. GEN. STAT. § 46b-212a(19) (2001).
- STATUTES:**
- CONN. GEN. STAT. (2001)
 - Chapter 815j. Dissolution of marriage, legal separation and annulment
 - Part I. General provisions
 - § 46b-44. Residency requirement
 - § 46b-46. Notice to nonresident party. Jurisdiction over nonresident for alimony. “Long arm” statute
 - Part III. Support of child and spouse. Transfer of property
 - § 46b-82. Alimony order
 - Chapter 816. Support
 - Part 1a. Uniform Interstate Family Support Act
 - § 46b-212d. Jurisdiction over nonresident
- COURT CASES**
(Connecticut):
- Krueger v. Krueger, 179 Conn. 488, 427 A.2d 400 (1980). “Whether a California decree purporting to terminate a modifiable Connecticut alimony decree must be enforced in Connecticut.”
 - Gaudio v. Gaudio, 23 Conn. App. 287, 298, 580 A.2d 1212 (1990). *Personal jurisdiction over non-resident*.
 - Rose v. Rose, 34 Conn. Supp. 221, 385 A.2d 1(1977). “It is undisputed that no alimony or counsel fees can be awarded in this state unless in personam jurisdiction has been acquired.”
- DIGESTS:**
- WEST KEY NUMBERS: *Divorce* § 201
 - DOWLING’S DIGEST: *Divorce and Separation* §§ 540-557
 - CONNECTICUT FAMILY LAW CITATIONS:
 - Alimony—Foreign judgments, enforcement of*
 - Alimony—Sister state decree, modification by*
- ENCYCLOPEDIAS:**
- 24A AM. JUR. 2D *Divorce and Separation* (1998).
 - §§ 1191-1202. In general; Alimony
 - 27B C.J.S. *Divorce* (1986).
 - § 313. Jurisdiction and power of courts—Jurisdiction over person or property
 - Annotation, *Decree For Alimony Rendered In Another State or country (or domestic decree based thereon) as subject to enforcement by equitable remedies or by contempt proceedings*, 18 ALR2d 862 (1951).
- TEXTS & TREATISES:**
- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).

Chapter 31. Jurisdiction to award alimony
§ 31.2. Personal jurisdiction over the payor
§ 31.4. Jurisdiction based on property in the state
§ 31.5. Effect of lack of jurisdiction

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§ 1.7 Duration of Alimony in Connecticut

2002 Edition

SCOPE: Bibliographic sources relating to duration of alimony including time-limited and rehabilitative alimony. Also, termination of alimony, effect of remarriage and cohabitation.

DEFINITION:

- **REHABILITATIVE ALIMONY** may be defined as alimony payable for a short, but specific and terminable period of time, which will cease when recipient is, in the exercise of reasonable efforts, in a position of self-support.” (emphasis added). Turner v. Turner, 97 ALR3d 730, 731 (1978).
- **CONNECTICUT'S COHABITATION STATUTE:** CONN. GEN. STAT. § 46b-86(b) (2001).

STATUTES:

- CONN. GEN. STAT. (2001):
§ 46b-86. Modification of alimony or support orders and judgments

FORMS:

- 8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
§ 35.32. Motion for modification of alimony based on cohabitation—Form

CASES:

- Mongillo v. Mongillo, 69 Conn. App. 472, 479, 794 A.2d 1054 (2002). “In the present case, the court awarded one year of alimony to the plaintiff on the basis of its finding that she was underemployed and would need only a short period of time to procure full-time employment. The court made those findings after hearing evidence concerning the plaintiff’s education, prior employment and earnings history. We conclude that sufficient evidence was presented to support the court’s durational alimony order.”
- Distefano v. Distefano, 67 Conn. App. 628, 633, 787 A.2d 675 (2002). “In accordance with General Statutes § 46b-86 (b) and the holding in *DeMaria*, [247 Conn. 715, 724 A.2d 1088 (1999)] before the payment of alimony can be modified or terminated, two requirements must be established. First, it must be shown that the party receiving the alimony is cohabitating with another individual. If it is proven that there is cohabitation, the party seeking to alter the terms of the alimony payments must then establish that the recipient’s financial needs have been altered as a result of the cohabitation.”
- Way v. Way, 60 Conn. App. 189, 199, 758 A.2d 884 (2000). “[L]ump sum alimony is a final judgment not modifiable by the court even if there is a change in circumstances”
- Guzman v. Guzman, 19 Conn. L. Repr. 1 (May 5, 1997). *Effect of remarriage on alimony.*
- Anderson v. Clinton, 4 CSCR 275 (New Haven, 1989). *Obligation to pay alimony after the death of payor.*

- Guss v. Guss, 1 Conn. App. 356, 472 A.2d 790 (1984). “A trial court cannot on its own initiative modify alimony or child support orders.”
- Windgerd v. Windgerd, 3 Conn. App. 261, 487 A.2d 212 (1985).
Substantial changes and termination of alimony.
- Davies v. Davies, 5 Conn. Law Reporter 536 (Bridgeport 1992).
Remarriage and termination of alimony.

DIGESTS:

- DOWLING’S DIGEST *Dissolution of marriage* § 18
- CONNECTICUT FAMILY LAW CITATIONS
Alimony—Cohabitation
Alimony—Lump-sum v. periodic
Alimony—Rehabilitative alimony
Alimony—Remarriage, effect of
Alimony—Termination of

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
Chapter 33. Alimony in general
§ 33.22. Periodic payment
§ 33.25. Award of lump sum or property—Generally
§ 33.26. _____ Property awarded as alimony
§ 33.27. _____ Lump sum payments
§ 33.28. Term of alimony
§ 33.29. Fixed term
§ 33.30. Indefinite duration
§ 33.35. Effect of remarriage
§ 33.36. Order for support of mentally ill spouse
§ 33.37. —Time for entry of order
§ 33.38. —Parties who may apply for order
§ 33.39. Order for support of mentally ill spouse—Duration of obligation
Chapter 35. Modification of alimony provisions
§ 35.21. Remarriage of payor
§ 35.22. Remarriage of payee
§ 35.23. Misconduct of the party receiving alimony
§ 35.25. Modification of alimony based upon cohabitation
§ 35.26. Proof of cohabitation
- 2 FAMILY LAW PRACTICE IN CONNECTICUT (1996).
Chapter 9. Alimony in Divorce—Spousal Support
§ 9.9. Periodic alimony
§ 9.11. Duration of alimony
§ 9.13. Permanent versus time limited
§ 9.15. Lump sum alimony
§ 9.18. Other forms of alimony
- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
Chapter 10. Alimony.
Duration, p. 229
Fixed-term alimony, pp. 219, 224-227
Open-ended alimony, p. 219, 220-224
Permanent, p. 82
Termination, p. 234

ENCYCLOPEDIAS:

- 27B C.J.S. *Divorce* (1986).
 - Temporary alimony
 - § 332. Commencement of allowance
 - § 333. Termination of allowance
 - Permanent alimony
 - § 373. Commencement and termination of allowance
 - § 374. —Death of parties
 - § 375. —Reconciliation of parties
 - § 376. —Remarriage of parties
 - § 377. —Cohabitation by recipient spouse
- 24A AM. JUR. 2D *Divorce and Separation* (1998).
 - §§ 785-794. Duration of allowance
 - § 785. Generally
 - § 786. Death of obligor spouse
 - § 789. Remarriage of recipient spouse; as automatically terminating alimony
 - § 793. Recipient spouse's cohabitation with another
 - § 794. Remarriage of spouses to each other; resumption of cohabitation
- Jay M. Zitter, *Excessive or inadequacy of lump-sum alimony awards*, 49 A.L.R.5th 441 (1997).

LAW REVIEWS:

- Cynthia George, *Rehabilitative Alimony: Do We Have It In Connecticut*, 3 CONNECTICUT FAMILY LAWYER (Spring 1988)

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§ 1.8 Attorney's Fees and Expenses

2002 Edition

- SCOPE:** Bibliographic resources relating to the awarding of attorneys' fees and expenses in action for alimony awards
- STATUTES:**
- CONN. GEN. STAT. (2002)
 - § 46b-62. Orders of payment of attorney's fees in certain actions
 - § 46b-87. Contempt of orders
- FORMS:**
- 8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
 - Chapter 32. Temporary alimony
 - § 32.4. Motion for alimony and counsel fees Pendente Lite—Form
 - Chapter 45. Attorney fees and expenses
 - § 45.10. Motion for attorney and expert fees pendente lite—Form
 - § 45.13. Motion for counsel fees and expenses pending appeal—Form
 - § 45.20. Affidavit of services—Form
- CASES:**
- Koizim v. Koizim, 181 Conn. 492, 500-501, 435 A.2d 1030 (1980). "counsel fees are not to be awarded merely because the obligor has demonstrated ability to pay."
 - Lev v. Lev, 10 Conn. App. 570, 524 A.2d 674 (1987). *Propriety of an award of counsel fees to a pro se litigant*
- DIGESTS:**
- WEST KEY NUMBERS: *Divorce* §§ 221-229
 - DOWLING'S DIGEST *Dissolution of marriage* § 16
- TEXTS & TREATISES:**
- ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (1991) [Vol. 8 CONNECTICUT PRACTICE BOOK ANNOTATED].
 - Chapter 45. Fees and Costs
 - § 45.2. Factors to be considered—Generally
 - § 45.3. _____ Parties' financial abilities
 - § 45.4. Effect of fault on claims for attorney's fees
 - § 45.5. Parties subject to attorney's fee awards
 - § 45.6. Amount of allowance
 - § 45.7. Allowances for other expenses
 - § 45.8. Agreements or property settlement provisions relating to attorney fees
 - § 45.9. Pendente lite award
 - § 45.11. Award in final judgment
 - § 45.12. Award on appeal
 - § 45.14 Attorney's fees for modification and enforcement proceedings
 - § 45.15. Attorney fee as sanction

- § 45.16. Fees for counsel for minor child or Guardian ad Litem
- § 45.17. Hearing requirements
- § 45.18. Enforcement of fee and expense awards
- § 45.19. Proof of attorney's fee claims
- 1 FAMILY LAW PRACTICE IN CONNECTICUT (1996).
 - Chapter 3. Attorneys' Fees, by Louis Parley.
 - II. Attorney-Client fee
 - III. Court awarded of fees
 - A. Dissolution actions
 - 1. Trials
 - 2. Appeals
 - 3. Modification
 - 4. Contempt

- ENCYCLOPEDIAS:**
- 24A AM. JUR. 2D *Divorce and Separation* (1998).
§§ 697-749. Suit money, counsel fees, and costs
 - 27B C.J.S. *Divorce* (1986).
§§ 343-368. Attorney fees and expenses
 - *Amount Of Allowance For Attorney Fees In Domestic Relations Action*, 45 POF2d 699 (1986).
 - Gary L. Garrison, Annotation, *Alimony Or Child-Support Awards As Subject To Attorneys' Liens*, 49 ALR5th 595 (1997).

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§ 1.9 Tax Consequences of Alimony

2002 Edition

- SCOPE:** Taxable and deductible alimony payments including recapture of front-loaded and cash payments
- DEFINITION:** “Alimony or separate maintenance payments are, under section 71, included in the gross income of the payee spouse, and, under section 215, allowed as a deduction from the gross income of the payor spouse.” 26 CFR Chap. 1, §1.71-1T (2001).
- STATUTES:**
- INTERNAL REVENUE CODE § 71 [26 USC § 71] (2001). Alimony and Separate Maintenance Payments
 - (a) General rule
 - (b) Alimony and separate payments defined
 - (c) Payments to support children
 - (d) Spouse
 - (e) Exception for joint returns
 - (f) Recomputation where excess front-loading of alimony payments
 - (g) Cross references
 - INTERNAL REVENUE CODE § 215 [26 USC § 215] (2001). Alimony, etc., payments
 - INTERNAL REVENUE CODE § 682 [26 USC § 682] (2001). Income of an estate or trust in case of a divorce, etc.
- HISTORY:**
- Domestic Relations Tax Reform Act of 1984 (DRTRA).
P.L. 98-369 §§421-426, 98 Stat. 793-805 (1984) [part of the Deficit Reduction Act of 1984]
- REGULATIONS:**
- 26 CFR Part 1 (rev. April 1, 2001)
 - § 1.71. Items specifically included in gross income
 - 1 Alimony and separate maintenance payments; income to wife or former wife
 - 1T Alimony and separate maintenance payments (temporary)
See [Table 8: Questions and Answers](#)
 - § 1.215
 - 1 Periodic alimony, etc., payments
 - 1T Alimony, etc., payments (temporary)
- FORMS:**
- 1B AMERICAN JURISPRUDENCE LEGAL FORMS (1999).
§ 17:87. Alimony and Separation—tax consequences of alimony and child support payments
 - BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
Chapter 11. Taxes.
Worksheet for recapture of alimony, p. 254

CASES:

- Wright v. Wright, 284 NW2d 894, 903 (1979). “It is not the labels placed by the payment which are determinative under the federal tax law. It is the structure and effect of the payments which control the characterization.”
- Emmons v. Commissioner, 36 TC 728, 738 (1961). “For purpose of section . . . 71(a), the fact that a payment is labeled ‘alimony’ is not controlling. The reports are replete with unsuccessful attempts to achieve a desired descriptive terms for the transaction involved.”

ENCYCLOPEDIAS:

- 24A AM. JUR. 2D *Divorce and Separation* (1998).
 - Temporary alimony
 - Amount of allowance
 - § 693. Consideration of tax consequence
 - Permanent alimony
 - Factors or circumstances affecting amount of allowance
 - § 777. Tax consequences of alimony award
 - Modification of alimony awards
 - Circumstances affecting right to modification
 - § 836. Consideration of tax consequences
- Ferdinand S. Tino, Annotation, *Divorce Or Separation: Consideration Of Tax Liability Or Consequences In Determining Alimony Or Property Settlement Provisions*, 51 ALR3d 461 (1973).
- Annotation, *Federal Income Tax: Husband’s Payment To Wife In Part For Support Of Minor Child*, 6 Led 2d 1370 (1962).
- Annotation, *Construction Of Provisions Of Internal Revenue Code Relating To Alimony Or Maintenance Payments*, 4 ALR2d 252 (1949).

PAMPHLETS:

- *Divorced Or Separated Individual* (Internal Revenue Service Publication 504 for use in preparing 2001 return), pp. 10-16.
 - General rules, p. 12
 - Instruments executed after 1984, p. 12
 - Alimony requirements, pp. 13-15
 - Recapture of alimony, p. 15
 - Instruments executed before 1985
 - Alimony requirements, pp. 15-16
 - Alimony trusts, annuities, and endowment contracts, p. 16

WORKSHEETS:

- *Divorced Or Separated Individuals* (Internal Revenue Service Publication 504 for use in preparing 2001 return).
 - Table 3 Worksheet for recapture of alimony

TEXTS & TREATISES:

- 8A ARNOLD H. RUTKIN ET AL., *CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS* (2d ed. 2000).
 - Chapter 56. Federal law affecting Connecticut domestic relations practice
 - § 56.14. The impact of federal alimony rules
- *FAMILY LAW PRACTICE IN CONNECTICUT* (1996).
 - Chapter 9. Alimony in Divorce—Spousal Support (by Jeffrey W. Hill)
 - § 9.2. Federal requirements
 - § 9.3. Former section 71
 - § 9.4. Excess recapture tax
 - § 9.5. DRTRA—in detail
 - § 9.6. Child contingency

- § 9.16. Tax analysis
 - § 9.19. Section 682 trust
- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
 - Alimony recapture, pp.252-256
 - IRS Alimony rules, p. 228
 - Tax significance of alimony, pp. 219, 231
 - Temporary alimony, tax considerations, p. 81
 - Termination of alimony, tax considerations, 234
- 1 WILLIAM J. BROWN, DIVORCE TAX PLANNING STRATEGIES (1995).
 - Chapter 2: Alimony and Separate Maintenance
 - § 2.05 General requirements for alimony treatment of payments under Post-1984 instrument
 - § 2.10 Divorce or separation instrument: three types, compared
 - § 2.11. Payments ordered by decree of divorce or separate maintenance, or instrument incident thereto
 - § 2.20. Temporary support-ordered payments
 - § 2.25. Qualifying payments pursuant to agreement
 - § 2.30. Recapture of front-loaded payments
 - § 2.50. Underpayments, late payments, and premature payments; allocation and taxation
- 1 MARIAN F. DOBBS, DETERMINING CHILD AND SPOUSAL SUPPORT (1995 rev. ed.).
 - Chapter 5. Tax Consequences and Consequences of Support
 - §§ 5:02-5:19. Alimony
 - § 5:02. In general
 - § 5:03. Pre-1985 law
 - § 5:04. Tax Reform Act of 1984
 - § 5:05. —Payments made in cash
 - § 5:06. —Payments received by or on behalf of the supported spouse
 - § 5:07. —Payments made pursuant to divorce or separation instrument
 - § 5:08. —Payments not designated by parties as nondeductible
 - § 5:09. —Spouses must not be members of the same household
 - § 5:10. —Spouses may not file joint return
 - § 5:11. —Nonliability after supported spouse's death must be express
 - § 5:12. —No part of the payment must be child support
 - § 5:13. —No minimum term required for alimony treatment
 - § 5:14. —Prior alimony deductions may be subject to recapture
 - § 5:16. Arrearages
 - § 5:17. Modification
 - § 5:18. Alimony trusts and annuities
 - § 5:19. Alimony and Individual Retirement Accounts (IRAs)
- ARNOLD H. RUTKIN, GEN ED., FAMILY LAW AND PRACTICE (2001).
 - Chapter 40. Tax Considerations: Spousal and Child Support (by Michael Asimow)
 - § 40.02[2]. Revised requirements for spousal support—overview
 - § 40.03. Spousal support: cash payments received under a divorce or separation instrument

- § 40.4. Spousal support: designation of spousal support as nontaxable and nondeductible
- § 40.5. Spousal support: obligation to make payments must cease at death
- § 40.6. Spousal support: recapture of front-loaded payments
- § 40.7. Continued cohabitation
- LYNN D. WARDLE ET AL., CONTEMPORARY FAMILY LAW: PRINCIPLES, POLICY AND PRACTICE (1988).
 - Chapter 33. Tax Consequences
 - § 33:03. Alimony or separate maintenance payments
 - § 33:04. Excess front loading rules

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Table 8 Questions & Answers on Alimony and Taxes

26 CFR § 1.71-1T (rev. April 1, 2001)		
Q-1	What is the income tax treatment of alimony or separate maintenance payments?	A-1
Q-2	What is alimony or separate maintenance payment?	A-2
Q-5	May alimony or separate maintenance payments be made in a form other than cash?	A-5
Q-9	What are the consequences if, at the time a payment is made, the payor and payee spouses are members of the same household?	A-9
Q-15	What are the consequences of a payment which the terms of the divorce or separation instrument fix as payable for the support of a child of the payor spouse?	A-15
Q-12	Will a divorce or separation instrument be treated as stating that there is no liability to make payments after the death of the payee spouse if the liability to make such payments terminates pursuant to applicable local law or oral agreement?	A-12
Q-13	What are the consequences if the payor spouse is required to make one or more payments (in cash or property) after the death of the payee spouse as a substitute for the continuation of pre-death payments which would otherwise qualify as alimony or separate maintenance payments?	A-13

§ 1.10 Bankruptcy and Alimony

2002 Edition

SCOPE:

Bibliographic sources relating to the effect of bankruptcy on alimony awards

DEFINITIONS:

- **NONDISCHARGEABLE:** “A discharge . . . does not discharge an individual from any debt . . . 5) to a spouse, former spouse, or child of the debtor, for **alimony** to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that--
(A) such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or any such debt which has been assigned to the Federal Government or to a State or any political subdivision of such State); or
(B) such debt **includes a liability designated as alimony**, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support” 11 U.S.C. § 523(a)(5) (2002). [emphasis added].

STATUTES:

- 11 U.S. Code (2002).
§ 362(b)(2). Automatic stay
§ 522. Exemptions
§ 523. Exceptions to discharge
(a)(5). alimony
§ 523(a)(5). Dischargeability of alimony payments

COURT RULES:

- FEDERAL RULES OF BANKRUPTCY PROCEDURE (2002)
Rule 4007. Determination of dischargeability of a debt

FORMS:

- *Complaint³⁴By debtor³⁴to determine dischargeability of alimony, maintenance, or support debt*, 4A FEDERAL PROCEDURE FORMS, L.Ed, *Bankruptcy* § 9:2542 (1992).
- RONALD L. BROWN, ED. BANKRUPTCY ISSUES IN MATRIMONIAL CASES: A PRACTICAL GUIDE, 1992.
Form 1. Suggestion and notice of filing of bankruptcy (in state court), p. F-6
Form 4. Notice of removal—filed in state court, p. F-10
Form 6. Motion for relief from automatic stay—to pursue divorce proceeding, p. F-12
Form 8. Motion for relief from automatic stay—to pursue state court remedies to enforce support and collect arrears, p. F-18
Form 13. Motion to determine dischargeability—by divorce obligee/creditor—seeking nondischarge of divorce obligations, F-35

CASES:

- Secada v. Secada, No. FA99-0174204S, 2002 Ct. Sup. 5057, 5079, 2002 WL

1041726 (Apr. 30, 2002). “The court intends its orders in this and the next section to be in the nature of maintenance and support and hence, under present law, and to the extent that this court may determine it, nondischargeable in bankruptcy.”

- Bettini v. Bettini, No. FA 94 119494, 19 Conn. L. Rptr. 7, 1997 Ct. Sup. 1814, 1997 WL 112803 (Feb. 25, 1997). “Whether or not the right of a bankruptcy debtor's ex-spouse to a portion of his pension plan benefits, awarded pursuant to a divorce decree, constitutes a "debt" owed by the debtor and dischargeable in bankruptcy has been the subject of litigation recently, although I am not aware of any Connecticut decisions on the question.”
- Lewis v. Lewis, 35 Conn. App. 622, 627, 646 A.2d 273 (1994). “The issue on appeal is whether the trial court correctly characterized the \$50,000 debt that the defendant owed to the plaintiff as nondischargeable. Section 523(a)(5) of the Bankruptcy Code denies debtors discharges from debts owed to former spouses for alimony, maintenance, or support. In contrast, property settlements to former spouses are dischargeable.”
- In Re Sailsbury, 779 P.2d 878, 880 (Kan.App. 1989). “We conclude that the trial court has concurrent jurisdiction [with bankruptcy court] to consider whether the Beneficial loan debt was not dischargeable in bankruptcy under 11 U.S.C. § 523(a)(5), as alimony, maintenance, or support.”
- Taylor v. Freeland & Kronz, 503 U.S. 638, 643, 112 S. Ct. 1644, 118 L.Ed. 2d 280 (1992). “Taylor acknowledges that Rule 4003(b) establishes a 30-day period for objecting to exemptions and that {U.S.C.} § 522(l) states that ‘[u]nless a party in interest objects, the property claimed as exempt . . . is exempt.’”

ENCYCLOPEDIAS:

- 9E AM. JUR. 2D *Bankruptcy* (2000).
§§ 3362-3384. Debts for alimony, support, or maintenance
- 8A C.J.S. *Bankruptcy* (1988).
§§ 329-330. Debt for alimony, maintenance, or support
- 5 FEDERAL PROCEDURE L ED, *Bankruptcy* (1991).
§ 9:1092. Collection of alimony, maintenance, or support
- J. Edwards, Annotation, *Wife's Claim To Alimony Or Other Allowances In Divorce Or Separation Suit As Passing, To Trustee In Wife's Bankruptcy, Under §70(A) Of Bankruptcy Act*, 10 ALR.FEDERAL 881.

TEXTS & TREATISES:

- 8A ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
Chapter 56. Federal laws affecting Connecticut domestic relations practice
 - § 56.4. The impact of federal bankruptcy on State divorce practice
 - § 56.5. ____ Effects of bankruptcy—Generally
 - § 56.6. ____ Impact of stay order upon commencement or continuation of marital proceedings
 - § 56.7. ____ **Effect of bankruptcy on obligations for child support or alimony**
 - § 56.8. ____ Effect of bankruptcy on the obligation to indemnify, or hold harmless, owed by the bankrupt to the other spouse in respect to discharged debts
 - § 56.9. ____ Priority over the claims of other creditors for the obligations owed to the former spouse or children
 - § 56.10. ____ Effect of bankruptcy on any liens to secure the

performance of the obligations imposed upon the bankrupt by the divorce

§ 56.11. ____ Effect of bankruptcy upon obligations to pay attorney fees awarded to the former spouse

§ 56.12. ____ State court measures to remedy the effect of bankruptcy

- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).

Bankruptcy at the time of your divorce, pp. 213-215

- RONALD L. BROWN, ED. BANKRUPTCY ISSUES IN MATRIMONIAL CASES: A PRACTICAL GUIDE (1992).
 - Chapter 5 Pre-divorce bankruptcy planning: the pros and cons
 - Chapter 6 Pre-bankruptcy planning: insulating assets from creditor's claims
 - Chapter 7 Protecting marital rights in contemplation of bankruptcy
 - Chapter 8 Should divorcing spouses seek bankruptcy relief during their dissolution proceeding?
 - Chapter 9 Planning and strategy in responding to a bankruptcy filing mid-divorce
 - Chapter 10 A guide to the post-divorce discharge of marital obligations
 - Chapter 11 Five faulty premises in the application of bankruptcy code section 523(a)(5)
 - Chapter 12 Avoidance of marital liens
- JUDITH K. FITZGERALD AND RAMONA M. ARENA, BANKRUPTCY AND DIVORCE: SUPPORT AND PROPERTY DIVISION 2d ed. (1994).
- COLLIER ON BANKRUPTCY (15th ed. rev. 1999).
 - Automatic stay. vol. 3 § 362.05[2]
 - Federal exemptions. vol. 4 §522.09[10][a], §522.11[5]
 - Chapter 13. vol. 8 §1328.02[3][c]

LAW REVIEWS:

- Dale Ellis, *Protect Your Client's Alimony From Discharge in Bankruptcy*, 36 PRACTICAL LAWYER 55 (January 1990).
[Available at the Norwich Law Library]
- Robert M. Welch Jr., *Protecting The Rights Of The Creditor Spouse; Whether It Is Called Alimony, Maintenance, Or Support, You Must Master The Federal Criteria Used To Determine If Payments Are Dischargeable*, 14 FAMILY ADVOCATE 36 (Winter 1992).
[Available at the Norwich Law Library]

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2

Child Support in Connecticut

A Guide to Resources in the Law Library

Definition:

- “. . . the purpose of a child support order is to provide for the care and wellbeing of minor children, and not to equalize the available income of divorced parents”
Battersby v. Battersby, 218 Conn. 467, 473, 590 A.2d 427 (1991).

Sections in this chapter:

§ 2.1 DUTY TO SUPPORT CHILDREN	45
§ 2.2 CHILD SUPPORT GUIDELINES.....	50
§ 2.2a <i>Applicability and Use</i>	51
§ 2.2b <i>Deviation from Guidelines</i>	53
§ 2.2c <i>When Not Applicable</i>	55
§ 2.3 CHILD SUPPORT PENDENTE LITE	57
§ 2.4 MODIFYING CHILD SUPPORT	60
§ 2.5 FACTORS USED	68
§ 2.6 ENFORCEMENT	70
§ 2.7 OUT-OF-STATE CHILD SUPPORT ORDERS IN CONNECTICUT COURTS.....	81
§ 2.8 DURATION AND TERMINATION	88
§ 2.9 CHILD SUPPORT AND TAXES.....	91
§ 2.10 BANKRUPTCY AND SUPPORT.....	96

Tables in this chapter:

TABLE 9 STATUTORY DUTY TO SUPPORT CHILDREN	48
TABLE 10 IV-D TEMPORARY CHILD SUPPORT	59
TABLE 11 TURNER V. TURNER	64
TABLE 12 IV-D CHILD SUPPORT CASES	65
TABLE 13 STATUTORY FACTORS IN DETERMINING CHILD SUPPORT	69
TABLE 14 CONNECTICUT STATUTES ENFORCING CHILD SUPPORT	74
TABLE 15 FEDERAL STATUTES & REGULATIONS ENFORCING CHILD SUPPORT.....	75
TABLE 16 HISTORY OF FEDERAL LEGISLATION DEALING WITH CHILD SUPPORT	77
TABLE 17 AGENCIES INVOLVED IN CHILD SUPPORT	78
TABLE 18 CHILD SUPPORT AND PARENTAL AGREEMENTS	79
TABLE 19 CONNECTICUT'S LONG ARM STATUTE	83
TABLE 20 ENFORCEMENT OF FOREIGN MATRIMONIAL JUDGMENTS	84
TABLE 21 UNIFORM INTERSTATE FAMILY SUPPORT ACT.....	85
TABLE 22 QUESTIONS AND ANSWERS ON CHILD SUPPORT AND TAXES	94
TABLE 23 CHILD SUPPORT PAYMENTS	95

Index

Child Support

- Abandoning parents' home and support, § 2.8
- Administrative agencies involved in, Table 9
- Adult children, support of, § 2.8
- Age of majority, §§ 2.1, 2.8
- Age of parent or child (factor), § 2.5
- Agreements to support beyond 18-years, § 2.8
- Amount and sources of income (factor), § 2.5
- Appearance requirement, foreign matrimonial judgment, § 2.7
- Application for contempt citation and order to show cause (form), § 2.6
- Armed forces, entering by child, § 2.8
- Automatic stay (bankruptcy), § 2.10
- Bankruptcy**, § 2.10
- Child care credits, § 2.9
- Child Support Guidelines**, § 2.2
 - applicability, § 2.2a
 - deviation from, § 2.2b
 - use of, § 2.2a
 - when not applicable, § 2.3
- Child tax credits, § 2.9
- Claimed exemption (bankruptcy), § 2.10
- College costs, reasonable, § 2.8
- Contempt, definition, § 2.6
- Deduction for medical/dental expenses, § 2.9
- Dependency exemption, § 2.9 and Table 14
- Deviation criteria, definition, § 2.2a
- Dischargeability of support payments, § 2.10
- Divorce decree, incorporation of support agreements in , § 2.8
- Duration of child support**, § 2.8
- Duty to support**, § 2.1 and Table 1
 - incarcerated minor, § 2.1
 - unmarried minor who refuses to live with parent, § 2.1
- Educational status (factor), § 2.5
- Educational Support Order, § 2.8
- Emancipation of child, § 2.8
- Employability (factor), § 2.5
- Enforcement of child support**, § 2.6
 - Connecticut statutes, Table 6
 - federal statutes, Table 7
 - out of state judgment, § 2.7
- Estate (factor), § 2.5
- Exemptions (Bankruptcy), § 2.10
- Factors Used in determining**, § 2.5 and Table 5
- Filing tax status, § 2.9
- Foreign divorces, § 2.7
- Foreign matrimonial judgments, § 2.7 and Table 12
- Health of parent or child (factor), § 2.5
- High school student over 18, § 2.8
- History of federal legislation, Table 8
- Hope and lifelong learning credits, § 2.9
- Innocent Spouse Rule, § 2.9
- Interstate enforcement of child support orders, § 2.7
- IV-D temporary child support, Table 2
 - definition, § 2.6
- Locating non-custodial parent, § 2.7
- Long arm statute (Connecticut), Table 11
- Maintenance, definition, § 2.1
- Marriage of child, § 2.8
- Medical/Dental expenses, deduction of, § 2.9
- Mental retardation, child with, § 2.8
- Modifying child support**, § 2.4
- Motion for Child Support Pendente Lite, § 2.3
- Motion for Contempt (form), § 2.6
- Motion for Determination of Alimony and Child Support (form), § 2.3
- Motion for Modification, JD-FM-174 (form), § 2.4
- Needs of child (factor), § 2.5
- Nondischargeable duty (bankruptcy), § 2.10
- Non-resident party, § 2.7 and Table 11
- Occupation of parent or child (factor), § 5
- Out-of-state orders**, § 2.7
 - threshold requirement, § 2.7
- Parental agreements, Table 10
- Payment fixed as payable for support, Table 15
- Pendente Lite**, § 2.3
- Physical disabilities, child with, § 2.8
- Post age 18 support, § 2.8
- Proof of change in circumstances, § 2.4
- Registry of support orders, § 2.7
- Regulations enforcing child support, Table 7
- Review of support agreements, § 2.8
- Schedule for production at hearing (form), § 2.6
- Shared custody, definition, § 2.2a
- Substantial change in the circumstances, § 2.4
- Support petition, § 2.1
- Support test for dependents (tax), § 2.9
- Tax Reform Act of 1984, § 2.9 and Table 14
- Tax refunds, collecting support from, § 2.9
- Taxes**, § 2.9 and Tables 14, 15
- Temporary support, § 2.3
- Termination of employment, § 2.4
- Termination**, § 2.8
- Threshold requirement, § 2.7
- Uniform Interstate Family Support Act, Table 13
- Visitation and child support, § 2.4
- Vocational skills (factor), § 2.5

§ 2.1 Duty to Support Children

2002 Edition

SCOPE: Bibliographic resources relating to the duty of parent to support child including child who are adopted or the issue of a subsequently annulled marriage.

DEFINITIONS:

- “The independent nature of a child’s right to parental support was recognized by this court long before that right was codified in our statutes.” Guille v. Guille, 196 Conn. 260, 263, 492 A.2d 175 (1985).
- Child support order “does not operate to crystallize or limit the duty of the parent to support his minor child, but merely defines the extent of the duty during the life of the order.” Rosher v. Superior Court, 71 P.2d 918.
- **Maintenance.** “Under General Statutes . . . [§] 46b-84, the court is authorized to make orders regarding the maintenance of the minor children of the marriage. The word ‘maintenance’ means ‘the provisions, supplies, or funds needed to live on.’ Webster, Third New International Dictionary. It is synonymous with support . . . Such orders may be in kind as well as in money.” Valente v. Valente, 180 Conn. 528, 532, 429 A.2d 964 (1980).

STATUTES:

- CONN. GEN. STAT. (2001)
 - § 46b-37(b). Joint duty of spouses to support family
 - § 46b-56. Superior court orders re custody and care
 - § 46b-84. Parents’ obligation for maintenance of minor child.
 - § 46b-58. Custody, maintenance and education of adopted children
 - § 46b-60. Orders re children and alimony in annulment cases
 - § 46b-215. Relatives obligated to furnish support, when.

CASES:

- W. v. W., 248 Conn. 487, 497-498, 728 A.2d 1076 (1999). “In the context of parental responsibilities, the duty to support the child is placed fairly on the nonparental party, not solely because of his voluntary assumption of a parental role, but, also because of the misleading course of conduct that induced the child, and the biological parent as the child’s guardian, to rely detrimentally on the nonparental party’s emotional and financial support of the child.”
- Unkelbach v. McNary, 244 Conn. 350, 357, 710 A.2d 717 (1998). “The [Child Support] guidelines are predicated upon the concept that children should receive the same proportion of parental income that they would have received had the family remained intact . . . Toward that end, the guidelines are income driven, rather than expense driven.”
- State v. Miranda, 245 Conn. 209, 222, 715 A.2d 680 (1998). “It is undisputed that parents have a duty to provide food, shelter and medical aid for their children and to protect them from harm.”
- In Re Bruce R., 234 Conn. 194, 209, 662 A.2d 107 (1995). “Connecticut child support legislation clearly evinces a strong state policy of insuring that minor child receive the support to which they are entitled.”
- Timm v. Timm, 195 Conn. 202, 207, 487 A.2d 191 (1985). “It is further recognized that an order for the support of minor children is not based solely on the needs of the children but takes into account what the parents can afford to pay.”
- Sillman v. Sillman, 168 Conn. 144, 358 A.2d 150 (1975). *Support and the*

age of majority.

SUPERIOR COURT (Unpublished)

- Fox v. Fox, No. FA90-0098219, 2002 Ct. Sup. 6090, 6092 (May 3, 2002).
“It stands to reason that if child support is the right of the child and the duty of the parent, and if incarceration of the parent does not extinguish the duty to support, then incarceration of the child does not extinguish the right to be supported. This Court finds that in the present case, incarceration of the minor child does not fall within the definition of self-supporting, nor does it eliminate the need or the right of the child to be supported. Therefore, this Court does not have the authority to suspend the order of child support in full prior to the child reaching the age of majority under current Connecticut statutory law and case law.”
- Decamillis v. Hasiotis, No. FA00-0630369, 2001 Ct. Sup. 12890, 12892, 2001 WL 11924 (Sep. 5, 2001). “It is implicit in the computation of current support orders that each parent's share must be computed, regardless of who requests the support order. Clearly, if either parent's support obligation is not met by providing direct support to a child in that parent's custody or by satisfactory and appropriate voluntary payments, it is not only the court's fight, but its duty, to set a support order.”
- State v. Gorman, No. FA 98-0331769 S, 2000 Ct. Sup. 2938-af, 2938-ah, 2001 WL 359720 (Feb. 2, 2000). “The court finds that there is no prior court order for the payment of child support. The court finds that this support petition brought pursuant to C.G.S. 46b-215 is an appropriate vehicle to establish a current support and an arrearage order. The court finds that to do same would not violate the prohibition against retroactive modifications of child support. The court finds that it is not bound by any agreement of the parties or by their actions or failure to act through the years.”

DIGESTS:

- DOWLING'S DIGEST: *Parent and Child* § 5 Liability of Parent. Support.
- CONNECTICUT FAMILY LAW CITATIONS:
CHILD SUPPORT, alteration, change, or amendment”
—Parents

**WEST KEY
NUMBERS:**

- *Parent & Child* # 3.1. Support and education of child. Rights, duties and liabilities in general
 - (2) Father, duty to support
 - (3) Mother, duty to support
- *Divorce* # 306. Grounds for award as to support

ENCYCLOPEDIAS:

- 59 AM. JUR. 2D *Parent and Child* (1987).
Support and maintenance §§ 41-74
- 24A AM. JUR. 2D *Divorce and Separation* (1998)
§§ 1001-1107. Child Support
 - Annotation, *Child's Right Of Action For Loss Of Support, Training, Parental Attention, Or The Like, Against A Third Person Negligently Injuring Parent*, 11 ALR4th 549 (1982).
 - Joel E. Smith, Annotation, *Parent's Obligation To Support Unmarried Minor Child Who Refuses To Live With Parent*, 98 ALR3d 334 (1980).
 - J.A. Bryant, Annotation, *Parent For Support Of Child Institutionalizes By Juvenile Court*, 59 ALR3d 636 (1974).

**TEXTS &
TREATISES:**

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).

Chapter 38. Child Support

§ 38.1 Duty to support child

§ 38.2 Statutory duty to support

§ 38.3 Comparison of “child support” and “alimony”

§ 38.4 Child to whom duty of support applies

LAW REVIEWS:

- Arthur E. Balbirer, *Rights And Obligations Of Custodial And Non-Custodial Parents In Connecticut*, 53 CONNECTICUT BAR JOURNAL 356 (1979).

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Table 9 Statutory Duty to Support Children

§ 46b-37	(b) Notwithstanding the provisions of subsection (a) of this section, it shall be the joint duty of each spouse to support his or her family, and both shall be liable for: (1) The reasonable and necessary services of a physician or dentist; (2) hospital expenses rendered the husband or wife or minor child while residing in the family of its parents; (3) the rental of any dwelling unit actually occupied by the husband and wife as a residence and reasonably necessary to them for that purpose; and (4) any article purchased by either which has in fact gone to the support of the family, or for the joint benefit of both.
§ 46b-56	(a) In any controversy before the Superior Court as to the custody or care of minor children, and at any time after the return day of any complaint under section 46b-45, the court may at any time make or modify any proper order regarding the education and support of the children and of care, custody and visitation if it has jurisdiction under the provisions of chapter 815o.
§ 46b-58	The authority of the Superior Court to make and enforce orders and decrees as to the custody, maintenance and education of minor children in any controversy before the court between husband and wife brought under the provisions of this chapter is extended to children adopted by both parties and to any natural child of one of the parties who has been adopted by the other.
§ 46b-60	In connection with any petition for annulment under this chapter, the Superior Court may make such order regarding any child of the marriage and concerning alimony as it might make in an action for dissolution of marriage. The issue of any void or voidable marriage shall be deemed legitimate. Any child born before, on or after October 1, 1976, whose birth occurred prior to the marriage of his parents shall be deemed a child of the marriage.

Statutory Duty to Support Children (cont'd)

§ 46b-61	In all cases in which the parents of a minor child live separately, the superior court for the judicial district where the parties or one of them resides may, on the [complaint] application of either party and after notice given to the other, make any order as to the custody, care, education, visitation and support of any minor child of the parties, subject to the provisions of sections 46b-54, 46b-56, 46b-57 and 46b-66. Proceedings to obtain such orders shall be commenced by service of an application, a summons and an order to show cause.
§ 46b-84	(a) Upon or subsequent to the annulment or dissolution of any marriage or the entry of a decree of legal separation or divorce, the parents of a minor child of the marriage, shall maintain the child according to their respective abilities, if the child is in need of maintenance.
§ 46b-215	<p>(a) (1) The Superior Court or a family support magistrate shall have authority to make and enforce orders for payment of support against any person who neglects or refuses to furnish necessary support to [his or her] such person's spouse or a child under the age of eighteen, according to [his or her] such person's ability to furnish such support, notwithstanding the provisions of section 46b-37.</p> <p>(a)(4) For purposes of this section, the term "child" shall include one born out of wedlock whose father has acknowledged in writing [his] paternity of such child or has been adjudged the father by a court of competent jurisdiction, or a child who was born before marriage whose parents afterwards intermarry.</p>

§ 2.2 Child Support Guidelines

2002 Edition

“**Child support guidelines**’ means the rules, principles, schedule, and worksheets established under these regulations for the determination of the appropriate level of current support for a child, to be used when establishing both temporary and permanent orders, whether in the initial determination of a child support order or a modification of an existing order. CONN. AGENCIES REGS. § 46b-215a-1(5) [amended August 1, 1999].

1999 Conn. Acts 279 § 32 (Reg. Sess.)

Notwithstanding the child support guidelines established pursuant to section 46b-215a of the general statutes, in cases in which an obligor is an hourly wage earner and has worked less than forty-five hours per week at the time of the establishment of the support order, any additional income earned from working more than forty-five hours per week shall not be considered income for purposes of such guidelines.

§ 2.2a When Applicable

2002 Edition

SCOPE:

Bibliographic resources relating to the [CHILD SUPPORT AND ARREARAGE GUIDELINES](#) (eff. August 1, 1999) including applicability and instructions on using.

DEFINITIONS:

- **Applicability.** “. . . used in the determination of **all** child support award amounts within the state effective June 1, 1994. When parents’ combined net weekly income exceeds \$1,750, awards shall be determined on a case-by-case basis, and the amount of support prescribed at the \$1,750 level shall be the minimum presumptive level. CONN. AGENCIES REGS. § 46b-215a-2(a) (2002). *Emphasis added.*

STATUTES:

- CONN. GEN. STAT. (2001)
§ 46b-215b. Guidelines to be used in determination of amount of support and payment on arrearages and past due support.

REGULATIONS:

- CONN. AGENCIES REGS. (2002).
§§ 46b-215a-1 et seq.
Child Support and Arrearage Guidelines Regulations
§§ 17b-179(b)-1. Support standards - child support guidelines

CASES:

- Zahringer v. Zahringer, 69 Conn. App. 251, 263, 793 A.2d 1214 (2002).
“The defendant also has failed to illuminate with any legal authority how, if at all, the child support guidelines apply to an unallocated order for alimony and support. In addition, the defendant has failed to furnish us with any documentation that indicates the guidelines were even applicable in this case in the first instance or how they were deviated from if they were applied.”
- Evans v. Taylor, 67 Conn. App. 108, 111-112, 786 A.2d 525 (2001).
“Although the court noted that it was unclear whether the earnings that were reported by the plaintiff were his actual earnings, it also noted that the defendant had income from various investments that she did not include on her financial affidavit. Further, the court found that pursuant to the financial affidavit of the plaintiff, his ‘expenses’ were, for the most part, all being paid, despite the fact that the total of those ‘expenses’ exceeded the amount he had listed as ‘income,’ which led the court to conclude that the plaintiff’s income was at least equal to that of his ‘expenses.’ In light of that situation, the court calculated the net income of each party using the same method; it substituted the amount listed as ‘expenses’ on each party’s financial affidavit for gross income and deducted the applicable payroll taxes from that amount to arrive at each party’s net income.”
- Battersby v. Battersby, 218 Conn. 467, 469-470, 590 A.2d 427 (1991). “The statute [46b-215b] does not . . . require the trial courts to apply the Guidelines to all determinations of child support, but creates only a rebuttable presumption as to the amount of child support. It requires only that the trial court consider the Guidelines.”
- Miklos v. Millos, 4 Conn. L. Rptr. 185, 186 (Litchfield, 1991). “the child support guidelines may be applied to motions for modification of support filed in cases where judgment was entered prior to the effective date of the child support guidelines.”

- Favrow v. Vargas, 222 Conn. 699, 707-714, 610 A.2d 1267 (1992). *History of the child support guidelines.*

DIGESTS:

- CONNECTICUT FAMILY LAW CITATIONS:
CHILD SUPPORT, alteration, change, or amendment”
—Guidelines
- FAMILY SUPPORT MAGISTRATE DECISIONS AND DIGEST
 - Child Support Guidelines
 - Support guidelines

WEST KEY NUMBERS:

- *Divorce* # 306-307

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed, 2000).
Chapter 38. Child Support
 - § 38.16. Guidelines and formulas for support
 - § 38.32. Connecticut Child Support Guidelines
 - § 38.33. Child Support Guidelines Worksheet—Form
- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
Chapter 8. Child Support
 - How to make the Child Support Guidelines work for you, pp. 153-154
 - If the Guidelines do not apply, pp. 154-156
 - Using the Guidelines and schedule of basic child support obligations, pp. 156-165
- FAMILY LAW PRACTICE IN CONNECTICUT (1996).
Chapter 11. Child Support by M. Carron
 - Calculation of Child Support Obligations under the Guidelines
 - A. Definitions [11.1 - 11.8]
 - B. Calculations
 - Guideline worksheet [11.9]
 - Corrections for low income obligor [11.10]

LAW REVIEWS:

- *Calculating And Collecting Child Support: Sixteen Years After The Guidelines...And Counting*, 23 FAMILY ADVOCATE no. 2 (Fall 2000). Special issue
- *1999 Child Support Symposium*, 33 FAMILY LAW QUARTERLY no. 1 (Spring 1999).
- 1998 WILEY FAMILY LAW UPDATE (1998).
Chapter 6. Imputing income for purposes of child and spousal support
- Lewis Becker, *Spousal And Child Support And The “Voluntary Reduction Of Income” Doctrine*, 29 Conn. L.R. 647 (1997).

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§ 2.2b Deviation from Guidelines

2002 Edition

- SCOPE:** Bibliographic resources relating to deviation from the [CHILD SUPPORT AND ARREARAGE GUIDELINES](#) (eff. August 1, 1999).
- DEFINITIONS:**
- **Deviation criteria** “means those facts or circumstances described in sections 46b-215a-3 of the Regulations of Connecticut State Agencies which may justify an order different from the presumptive support amount.” CONN. AGENCIES REGS. § 46b-215a-1(10) (2002).
 - **Shared custody** “means a situation in which the noncustodial parents exercises visitation or physical care and control of the child for periods substantially in excess of a normal visitation schedule. An equal sharing of physical care and control of the child is not required for a finding of shared physical custody.” CONN. AGENCIES REGS. § 46b-215a-1(22) (2002).
- STATUTES:**
- CONN. GEN. STAT. (2001)
§ 46b-215b(a) “. . . A specific finding on the record that the application of the guidelines would be inequitable or inappropriate in a particular case, as determined under criteria established by the commission under section 46b-215a, shall be sufficient to rebut the presumption in such case.”
- REGULATIONS:**
- CONN. AGENCIES REGS. (2002)
§§ 46b-215a-3(b) Child Support guidelines deviation criteria
 - (1) other financial resources available to parent
 - (2) extraordinary expenses for care and maintenance of the child
 - (3) extraordinary parental expenses
 - (4) needs of a parent’s other dependents
 - (5) coordination of total family support
 - (6) special circumstances
 - (A) Shared physical custody
 - (B) Best interest of the child
 - (C) Other equitable factors
- AGENCY REPORTS:**
- [CHILD SUPPORT AND ARREARAGE GUIDELINES](#) (eff. August 1, 1999)
Preamble to Child Support and Arrearage Guidelines,
(h)(4). **Shared custody.** “The commission has amended the guidelines regulations to improve the consistency of orders involving shared physical custody.”
- CASES:**
- Brent v. Lebowitz, 67 Conn. App. 527, 532, 787 A.2d 621 (2002) [cert. granted, 260 Conn. 902 but limited to the issue "Did the Appellate Court properly conclude that the trial court improperly applied the child support and arrearage guidelines under General Statutes 46b-215b to the arrearage owed by the plaintiff?"]. “Accordingly, support agreements that are not in accordance with the financial dictates of the guidelines are not enforceable unless one of the guidelines’ deviation criteria is present, such as when the terms of the agreement are in the best interest of the child.”
- DIGESTS:**
- CONNECTICUT FAMILY LAW CITATIONS:

CHILD SUPPORT, alteration, change, or amendment”

—Guidelines

—deviation

- FAMILY SUPPORT MAGISTRATE DECISIONS AND DIGEST
Deviation from Child Support Guidelines

**WEST KEY
NUMBERS:**

- *Divorce* # 309.6
- *Parent and Child* # 3.3

**TEXTS &
TREATISES:**

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
Chapter 38. Child Support
§ 38.16 Guidelines and formulas for support
- FAMILY LAW PRACTICE IN CONNECTICUT (1996).
Chapter 11 Child Support by M. Carron
 - 11.11 **Criteria for deviating from the Child Support Guidelines**
 - 11.12 Other financial resources available to the obligor
 - 11.13 Extraordinary expenses for care and maintenance of the child
 - 11.14 Extraordinary parental expenses
 - 11.15 Needs of a parent’s other dependents
 - 11.16 Coordination of total family support
 - 11.17 Special circumstances
- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998). Chapter 8, Child Support
 - Deviation: what if the recommended support is too high or too low for you? pp. 165-168
 - Supplementing the Guidelines amount or establishing an independent Child Support plan, pp. 168-173

LAW REVIEWS:

- 1997 WILEY FAMILY LAW UPDATE (1997).
Chapter 1. Deviating from Child Support percentages in high-income cases
 - § 1.8. Circumstances favoring deviation from percentages
 - § 1.9 —High income of the payee
 - § 1.10. —Fluctuating income
 - § 1.11. —Child support trusts

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§ 2.2c When Not Applicable

2002 Edition

- SCOPE:** Bibliographic resources relating to when the [CHILD SUPPORT AND ARREARAGE GUIDELINES](#) (August 1, 1999) do not apply.
- STATUTES:**
- CONN. GEN. STAT. (2001)
§ 46b-215b. Guidelines to be used in determination of amount of support and payment on arrearages and past due support.
- REGULATIONS:**
- CONN. AGENCIES REGS. (2002)
§ 46b-215a-2a. Child support guidelines
(a) Applicability
(2) Income scope. When the parents' combined net weekly income exceeds \$2,500, child support awards shall be determined on a case-by-case basis, and the current support prescribed at the \$2,500 net weekly income level shall be the minimum presumptive amount.
- DIGESTS:**
- CONNECTICUT FAMILY LAW CITATIONS:
CHILD SUPPORT, alteration, change, or amendment
—Guidelines
 - FAMILY SUPPORT MAGISTRATE DECISIONS AND DIGEST
 - Child Support Guidelines
 - Support guidelines
- CASES:**
- Benedetto v. Benedetto, 55 Conn. App. 350, 355, 738 A.2d 745 (1999). “The defendant next claims that the trial court improperly ordered child support without any reference to the child support guidelines. This claim is without merit. The court found that the defendant's income exceeded the maximum level in the guidelines and, therefore, the guidelines did not apply.”
 - Carey v. Carey, 29 Conn. App. 436, 440, 615 A.2d 516 (1992). “Although the trial court correctly recognized that the guidelines generally are not applicable to parents with a weekly net income below the self-support reserve of \$135, the trial court failed to consider the entire mandate of the guidelines. They state that ‘[e]xcept as provided under the deviation criteria, the guidelines do not apply to a parent whose net weekly income is less than \$135.’ (Emphasis added.) Connecticut Child Support Guidelines (b)(2). As a result, even where income does not exceed the self-support reserve, the guidelines are applicable and must be considered ‘as provided under the deviation criteria.’
- WEST KEY NUMBERS:**
- *Divorce* # 309.6
 - *Parent and Child* # 3.3
- TEXTS & TREATISE :**
- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
Chapter 38. Child Support
§ 38.16. Guidelines and formulas for support
 - FAMILY LAW PRACTICE IN CONNECTICUT (1996).
Chapter 11. Child Support
11.18 **Child support when the guidelines don't apply**

- 11.19 Family net income exceeds \$1,750 per week
- 11.20 When one or both parents are earning significantly less than their potential income
- 11.21 More than six children
- 11.22 Irregular family income
- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
Chapter 8. Child Support

PERIODICALS:

- Lewis Becker, *Spousal And Child Support And The “Voluntary Reduction Of Income” Doctrine*, 29 Conn. L.R. 647 (1997).

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§ 2.3 Child Support Pendente Lite

2002 Edition

SCOPE: Bibliographic resources relating to the awarding of temporary child support including modification and enforcement.

DEFINITIONS:

- “Payment pursuant to such an award is to provide for the wife and the dependent children while they are living apart from her husband pending a determination of the issues in the case.” Fitzgerald v. Fitzgerald, 169 Conn. 147, 151, 362 A.2d 889 (1975).

STATUTES:

- CONN. GEN. STAT. (2001)
 - § 46b-83. At any time after the return day of a complaint under section 46b-45 [,] or 46b-56 or after filing an application under section 46b-61, as amended by this act, and after hearing, alimony and support pendente lite may be awarded to either of the parties from the date of the filing of an application therefor with the Superior Court. Full credit shall be given for all sums paid to one party by the other from the date of the filing of such [an application] a motion to the date of rendition of such order. In making an order for alimony pendente lite the court shall consider all factors enumerated in section 46b-82, except the grounds for the complaint or cross complaint, to be considered with respect to a permanent award of alimony. In making an order for support pendente lite the court shall consider all factors enumerated in section 46b-84. The court may also award exclusive use of the family home or any other dwelling unit which is available for use as a residence pendente lite to either of the parties as is just and equitable without regard to the respective interests of the parties in the property.
 - § 46b-84(d). In determining whether a child is in need of maintenance and, if in need, the respective abilities of the parents to provide such maintenance and the amount thereof, the court shall consider the age, health, station, occupation, earning capacity, amount and sources of income, estate, vocational skills and employability of each of the parents, and the age, health, station, occupation, educational status and expectation, amount and sources of income, vocational skills, employability, estate and needs of the child. [amended by P.A. 97-321 §1]
 - § 46b-86(a). “. . . an order for alimony or support pendente lite may at any time thereafter be continued, set aside, altered or modified by said court upon a showing of a substantial change in the circumstances of either party or upon a showing that the final order for child support substantially deviates from the child support guidelines established pursuant to section 46b-215a, unless there was a specific finding on the record that the application of the guidelines would be inequitable or inappropriate.”

FORMS:

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
 - § 37.5. Motion for Child Support Pendente Lite

§ 37.6. Motion for Determination of Alimony and Child Support

- BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).

CASES:

- Evans v. Taylor, 67 Conn. App. 108, 118, 786 A.2d 525 (2001). “It was improper for the court to omit the pendente lite arrearage in its final judgment of dissolution even though the defendant may not have specifically requested that in her claims for relief.”
- Connolly v. Connolly, 191 Conn. 468, 480, 464 A.2d 837 (1983). “Pendente lite orders necessarily cease to exist once a final judgment in the dispute has been rendered because their purpose is extinguished at that time
- Wolk v. Wolk, 191 Conn. 328, 331, 464 A.2d 780 (1983). “Since the purposes of pendente lite awards and final orders are different, there is no requirement that the court give any reason for changing the pendente lite orders.”
- England v. England, 138 Conn. 410, 414, 85 A.2d 483 (1951). “It is within the sound discretion of the trial court whether such an allowance should be made and, if so, in what amount. Its decision will not be disturbed unless it clearly appears that it involves an abuse of discretion.”
- Beaulieu v. Beaulieu, 18 Conn. Sup. 497, 498 (1954). “There should be no distinction between permanent and temporary alimony as respects collection.”
- Fitzgerald v. Fitzgerald, 169 Conn. 147, 152-153, 362 A.2d 889 (1975). “In deciding the motions for temporary orders, the court could rely on the primary duty of the defendant to support his minor children pending the disposition of the first count of the plaintiff’s complaint upon a trial on the merits.”

DIGESTS:

- DOWLING’S DIGEST: Parent and Child § 5
- CONNECTICUT FAMILY LAW CITATIONS: *Pendente Lite Orders*
- FAMILY SUPPORT MAGISTRATE DECISIONS AND DIGEST
Words and phrases—Pendente lite

ENCYCLOPEDIAS:

- 24 AM. JUR. 2D *Divorce and Separation* (1998).
§§ 1047-1050. Temporary support
- Gary L. Hall, Annotation, *Wife’s Possession Of Independent Means As Affecting Her Right To Child Support Pendente Lite*, 60 ALR3d 832 (1974).

**TEXTS &
TREATISES:**

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
Chapter 37. Temporary Child Support
§ 37.2. Comparison with temporary alimony
§ 37.3. Time and method for raising claim
§ 37.4. Preparation of pendente lite claim
§ 37.7. Hearing
§ 37.8. Amount of order. Factors to be considered
§ 37.9. Order, stipulation or voluntary compliance
§ 37.10. Enforcement
§ 37.11. Modification
§ 37.12. Effect of prenuptial or other agreement relating to child support

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Table 10 IV-D Temporary Child Support

46b-213e	(b) The family support magistrate may issue a temporary child support order if: (1) The respondent has signed a verified statement acknowledging paternity; (2) the respondent has been determined by or pursuant to law to be the parent; or (3) there is clear and convincing evidence of paternity which evidence shall include, but not be limited to, genetic test results indicating a ninety-nine per cent or greater probability that such respondent is the father of the child.
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§ 2.4 Modifying Child Support

2002 Edition

SCOPE: Bibliographic resources relating to modification of support including grounds but excluding IV-D child support cases

DEFINITIONS:

- **Modification of child support:** “any final order for the periodic payment of permanent alimony or support or an order for alimony or support pendente lite may at any time thereafter be continued, set aside, altered or modified by said court upon a showing of a substantial change in the circumstances of either party or upon a showing that the final order for child support substantially deviates from the child support guidelines . . .” CONN. GEN. STAT. § 46b-86(a) (2001).

STATUTES:

- CONN. GEN. STAT. (2001)
 - § 46b-8. Motion for modification combined with motion for contempt
 - § 46b-86. Modification of alimony or support orders and judgments
 - (a) substantial change in circumstances or deviation from child support guidelines as grounds for modification
 - (c) When a motion to modify must be filed with the Family Support Magistrate Division
 - § 46b-213o. Procedure re registration of child support order of another state for modification
 - § 46b-213p. Effect of registration for modification
 - § 46b-213q. Modification of child support order of another state

LEGISLATIVE HISTORY:

- P.A. 90-188. An act concerning use of guidelines for modification of support orders
 - House Bill No. 5668 (1990)
 - Senate proceedings: 2702-2705, 2754-2755
 - House Proceedings: 3624-3628
 - Hearings, Judiciary Committee: 411-412, 415-416, 421-428, 475, 502-503, 512, 553-554, 556, 589-591, 619-620, 621, 628

REGULATIONS:

- CONN. AGENCIES REGS. (1998)
 - Title IV-D Program §17b-179
 - § 17b-179(m)-8. Review and modification (2000).

COURT RULES:

- CONNECTICUT PRACTICE BOOK (2002 EDITION)
 - Chapter 25. Procedure in Family Matters
 - § 25-26. Modification of custody, alimony or support
 - § 25-30. Statements to be filed
 - § 25-57. Affidavit concerning children

FORMS:

- Official Forms
 - Motion for Modification, JD-FM-174.

CASES:

- Santoro v. Santoro, 70 Conn. App. 212, 218, 796 A.2d 567 (2002). “In addition, a child support order cannot be modified unless there is (1) a showing of a substantial change in the circumstances of either party or (2) a showing that the final order for child support substantially deviates from the

- child support guidelines absent the requisite findings.”
- Prial v. Prial, 67 Conn. App. 7, 12, 787 A.2d 50 (2001). “The parties’ agreement to revisit the issues of alimony and child support cannot contract away the statutory requirement that the party seeking modification demonstrate a substantial change in circumstances and excuse the failure to comply with the rules of practice with respect to the filing of such a motion.”
- W. v. W., 248 Conn. 487, 494, 728 A.2d 1076 (1999). “Therefore, we conclude that regardless of whether the child at issue in the present case is considered a ‘child of the marriage,’ the trial court had subject matter jurisdiction to order pendente lite child support.”
- Unkelbach v. McNary, 244 Conn. 350, 355, 710 A.2d 717 (1998). “In deciding upon the modified amount of child support to be ordered, the court considered the defendant’s present ability to pay. In that regard, it found that the defendant’s gross income included amounts contributed by . . . [domestic partner] toward their household expenses.”
- Jenkins v. Jenkins, 243 Conn. 584, 704 A.2d 231 (1998).
- Shearn v. Shearn, 50 Conn. App. 225, 717 A.2d 793 (1998).
- Turner v. Turner, 219 Conn. 703, 720, 595 A.2d 297 (1991). *Substantial deviation from the child support guidelines (added by P.A. 90-188) applies retroactively.* See Table 6.
- Brock v. Cavanaugh, 1 Conn. App. 138, 141, 468 A.2d 8 (1984). *Support payments are not conditioned upon visitation.* “Furthermore, a support order can only be modified by the court.”
- Kelepecz v. Kelepecz, 187 Conn. 537, 538, 447 A.2d 8 (1982). *The party seeking modification of a support order must “clearly and definitely” demonstrate the substantial change.*
- Hardisty v. Hardisty, 183 Conn. 253, 258-259, 439 A.2d 307 (1981). “Once a trial court determines that there has been a substantial change in the financial circumstances of one of the parties, the same criteria that determine an initial award of alimony and support are relevant to the question of modification.”

**WEST KEY
NUMBER:**

- *Divorce* #309-309.6. Modification of order, judgment or decree as to support
- *Divorce* # 311.5. Retrospective Modifications

DIGESTS:

- FAMILY SUPPORT MAGISTRATE DECISIONS AND DIGEST
 - Motion for modification
 - Substantial change of circumstances
- ALR QUICK INDEX:
 - Custody and Support of Children. Change or Modification

ENCYCLOPEDIAS:

- 24 AM. JUR. 2D *Divorce and Separation* (1998)
 - §§ 1079-1107.
 - §§ 1085-1100. Change in circumstances
 - § 1086. Nature and sufficiency of change
- *Changes In Circumstances Justifying Modification Of Support Order*, 1 POF 2d 1 (1974).
 - §§ 6-16. Proof of change in circumstances justifying increase in child support payments
 - §§17-29. Proof of change in circumstances justifying decrease in child support payments
- *Cause Of Action For Reduction Of Amount Of Child Support Based On Changed Financial Circumstances Of Obligor*, 29 COA 141 (1992).
- Karen A. Cusenbary, Annotation, *Decrease In Income Of Obligor Spouse Following Voluntary Termination Of Employment As Basis For Modification*

Of Child Support Award, 39 ALR5th 1 (1996).

- Frank J. Wozniak, Annotation, *Loss Of Income Due To Incarceration As Affecting Child Support Obligation*, 27 ALR5th 540 (1995).
- Todd R. Smith, Annotation, *Court's Authority To Reinstate Parent's Support Obligations After Terms Of Prior Decree Have Been Fulfilled*, 48 ALR 4th 952 (1986).
- Debra E. Wax, Annotation, *Effect Of Remarriage Of Spouses To Each Other On Child Custody And Support Provisions Of Prior Divorce Decree*, 26 ALR4th 325 (1983).
- Emile F. Short, Annotation, *Retrospective Increase In Allowance For Alimony, Separate Maintenance Or Support*, 52 ALR3d 156 (1973).
- Annotation, *Remarriage Of Parent As Basis Of Modification Of Amount Of Child Support Provisions Of Divorce Decree*, 89 ALR2d 106 (1963).
- Annotation, *Change In Financial Condition Or Needs Of Parents Or Children As Grounds For Modification Of Decree For Child Support Payments*, 89 ALR2d 7 (1963).

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS [Vol. 8 CONNECTICUT PRACTICE BOOK ANNOTATED].
 - Chapter 39. Modification of child support provisions of judgment
 - § 39.2. Grounds for modification
 - § 39.3. Timing of factors to be considered
 - § 39.4. Parties entitled to seek modification
 - § 39.7. Modifiability of support payments; limitations
 - § 39.11. Grounds for modification of support
 - § 39.14. Remarriage of either parent
 - § 39.15. Death of either parent
 - § 39.16. Changes in financial circumstances of either parent
 - § 39.17. Health of the children
 - § 39.18. Changes in cost of living
 - § 39.19. Earnings of the child
 - § 39.20. Effect of modifications on arrearages; retroactive changes
 - § 39.21. Effect of prior modification
- MARION F. DOBBS, DETERMINING CHILD AND SPOUSAL SUPPORT (1995).
 - Chapter 6. Modification of Support
 - §§ 6:02-6:17. Changed circumstances
- ARNOLD H. RUTKIN ET AL., FAMILY LAW AND PRACTICE (1991).
 - § 52.02 Modification of child Support
 - [3]. Grounds for modification
 - [4]. Defenses
 - [a]. Emancipation of the child
 - [b]. Termination of parental rights; adoption
- 4 LYNN D. WARDLE, CONTEMPORARY FAMILY LAW: PRINCIPLES, POLICY AND PRACTICE (1998).
 - § 38:04. Modification and termination of child support

PAMPHLETS:

- Legal Assistance Resource Center, *How to Modify Child Support and Alimony Orders* (May 2002).
http://www.larcc.org/pamphlets/children_family/modify_child_support_and_alimony.pdf

LAW REVIEWS:

- *Calculating And Collecting Child Support: Sixteen Years After The Guidelines...And Counting*, 23 FAMILY ADVOCATE no. 2 (Fall 2000).

- Alexander S. deWitt, *Making Your Case For Modification*, p. 30.
- Cynthia George, *Combating The Effects Of Inflation On Alimony And Child Support Orders*, 75 CONNECTICUT BAR JOURNAL 223 (1983).

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Table 11 Turner v. Turner

<p>Grounds for modification of alimony or support orders and judgments. CONN. GEN. STAT. (2001) § 46b-86(a)</p> <ol style="list-style-type: none"> 1. substantial change in circumstances; or 2. substantial deviation from child support guidelines
<ul style="list-style-type: none"> • Both the "substantial change of circumstances" and the "substantial deviation from child support guidelines" provision establish the authority of the trial court to modify existing child support orders to respond to changed economic conditions. The first allows the court to modify a support order when the financial circumstances of the individual parties have changed, regardless of their prior contemplation of such changes. The second allows the court to modify child support orders that were once deemed appropriate but no longer seem equitable in the light of changed social or economic circumstances in the society as a whole, as reflected in the mandatory periodic revisions of the child support guidelines. See General Statutes 46b-215a. In light of the similar purposes and language of these provisions, we conclude that the legislature intended both provisions to be applicable to orders entered before the provisions became law." <u>Turner v. Turner</u>, 219 Conn. 703, 718 (1991).
<ul style="list-style-type: none"> • In further support of our interpretation of the legislative intent underlying P.A. 90-188, we take judicial notice of a statutory development that occurred in the 1991 legislative session, a few months after the trial court rendered its judgment in this case. While the legislature was considering a bill that would establish a standard by which a court could determine what degree of deviation from the child support guidelines might be considered "substantial," an attorney for a legal services organization informed the Judiciary Committee that trial courts had construed P.A. 90-188 to preclude its retrospective application to orders entered before the effective date of the act. See Conn. Joint Standing Committee Hearings, Judiciary, March 22, 1991, pp. 888-89, remarks of Amy Eppler-Epstein. [fn10] The legislature subsequently enacted Public Acts 1991, No. 91-76, 1 (P.A. 91-76), which added the following provisions to General Statutes 46b-86 immediately following the text that had been added by P.A. 90-188: "There shall be a rebuttable presumption that any deviation of less than fifteen percent from the child support guidelines is not substantial and any deviation of fifteen percent or more from the guidelines is substantial. Modification may be made of such support order without regard to whether the order was issued before, on or after the effective date of this act." This act was signed by the governor on May 9, 1991, and became effective on that date. See Public Acts 1991, No. 91-76, 7. <u>Turner v. Turner</u>, 219 Conn. 703, 718-719 (1991).
<ul style="list-style-type: none"> • The magistrate concluded, nevertheless, that the express statement of retroactivity added by the 1990 amendment was intended to apply only to the "substantial change of circumstances" provision of 46b-86. We conclude, to the contrary, that these amendments, which were enacted in the same legislative session to enhance the ability of parties to modify support orders, must be construed to create one consistent body of law. <u>Turner v. Turner</u>, 219 Conn. 703, 718 (1991).

Table 12 IV-D Child Support Cases

Family Support Magistrate Division	
§ 46b-231(b)	<p>Definitions:</p> <p>(6) "Family Support Magistrate Division" means a division of the Superior Court created by this section for the purpose of establishing and enforcing child and spousal support in IV-D cases and in cases brought pursuant to sections 46b-212 to 46b-213v, inclusive, of this act, utilizing quasi-judicial proceedings;</p> <p>(7) "Family support magistrate" means a person, appointed as provided in subsection (f) of this section to establish and enforce child and spousal support orders;</p> <p>(14) "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, issued by a court of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees and other relief.</p>
§ 46b-215(a)	<p>[Procedures] " . . . Proceedings to obtain such orders of support shall be commenced by the service on the liable person or persons of a verified petition with summons and order"</p>
§ 46b-231(m)	<ul style="list-style-type: none"> • Magistrates' powers and duties. The Chief Family Support Magistrate and the family support magistrates shall have the powers and duties enumerated in this subsection. <ol style="list-style-type: none"> (1) A family support magistrate in IV-D support cases may compel the attendance of witnesses or the obligor under a summons . . . subpoena . . . citation for failure to obey an order of a family support magistrate or a judge of the Superior Court. If a person is served with a summons, subpoena or citation by the family support magistrate or the assistant clerk of the Family Support Magistrate Division and fails to appear, a family support magistrate may issue a capias mittimus directed to some proper officer to arrest the obligor or the witness and bring him before a family support magistrate. [emphasis added] (2) Family support magistrates shall hear and determine matters involving child and spousal support in IV-D support cases (3) Family support magistrates shall review and approve or modify all agreements for support in IV-D support cases filed with the Family Support Magistrate Division (4) Motions for modification of existing child and spousal support orders entered by the Superior Court in IV-D support cases, including motions to modify existing child and spousal support orders entered in actions brought pursuant to chapter 815j

<p>§ 46b-231(m) [cont'd]</p>	<p>FSMD [cont'd]</p> <p>[Dissolution of marriage, legal separation and annulment], shall be brought in the Family Support Magistrate Division and decided by a family support magistrate, except that an order to modify existing child and spousal support orders entered in actions brought pursuant to chapter 815j shall be subject to the approval of a judge of the Superior Court and may be modified by such judge.</p> <p>(5) Proceedings to establish paternity in IV-D support cases shall be filed in the Family Support Magistrate Division for the judicial district where the mother or putative father resides.</p> <p>(7) Family support magistrates shall enforce orders for child and spousal support entered by such family support magistrate and by the Superior Court in IV-D support cases by citing an obligor for contempt</p> <p>(12) A family support magistrate may order parties to participate in parenting education program</p>
<p>§ 46b-231</p>	<p>(n)(1) A person who is aggrieved by a final decision of a family support magistrate is entitled to judicial review by way of appeal under this section</p> <p>(n)(2) Proceedings for such appeal shall be instituted by filing a petition”</p> <p>(p) The filing of an appeal from a decision of a family support magistrate does not affect the order of support of a family support magistrate, but it shall continue in effect until the appeal is decided, and thereafter, unless denied, until changed by further order of a family support magistrate or the Superior Court.</p>
<p>§ 46b-212a</p> <p>§ 46b-212b</p>	<p>Uniform Interstate Family Support Act.</p> <p>(23)“Tribunal” means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine paternity.</p> <p>The Superior Court and the Family Support Magistrate Division of the Superior Court are the tribunals of this state. The Family Support Magistrate Division is the tribunal for the filings of petitions under sections 46b-212 to 46b-213, inclusive, provided clerical, administrative and other nonjudicial functions in proceedings before the Family Support Magistrate Division may be performed by the Support Enforcement Division of the Superior Court.</p>

[Cont'd]

Support Enforcement Officers
of the Support Enforcement Division of the Superior Court

§ 46b-231(s)	<p>(1) Supervise the payment of any child or spousal support order made by a family support magistrate [as amended by 1999 Conn. Acts 193 §12 (Reg. Sess.)]</p> <p>(2) In non-TANF cases, have the authority to bring petitions for support orders pursuant to 46b-215 . . . file agreements for support . . . and bring applications for show cause orders . . . enforce foreign support orders registered with the Family Support Magistrate Division . . . and file agreements for support</p> <p>(3) In connection with any order or agreement entered by, or filed with, the Family Support Magistrate Division, or any order entered by the Superior Court in a IV-D support case upon order, investigate the financial situation of the parties and report findings</p> <p>(1) In non-TANF IV-D cases, review child support orders at the request of either parent subject to a support order or at the request of the Bureau of Child Support Enforcement and initiate an action before a family support magistrate to modify such support order</p>
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Attorney General

§ 46b-231(t)	<p>(1) Represent the interest of the state in all actions for child support or spousal support in all cases in which the state is furnishing or has furnished aid or care to one of the parties to the action or a child of one of the parties;</p> <p>(2) In interstate support enforcement . . . provide necessary legal services on behalf of the support enforcement agency in providing services to a petitioner;</p> <p>(3) Represent the IV-D agency in providing support enforcement services in non-AFDC cases</p>
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Department of Social Services

§ 46b-231(u) (1)	<p>The Department of Social Services may in IV-D cases</p> <p>(A) bring petitions for support orders . . . ;</p> <p>(B) obtain acknowledgments of paternity;</p> <p>(C) bring applications for show cause orders . . . ;</p> <p>(D) file agreements for support with the assistant clerk of the Family Support Magistrate Division.</p>
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§ 2.5 Factors Used

2002 Edition

- SCOPE:** Bibliographic resources relating to the factors used by the courts in determining and modifying child support.
- STATUTES:**
- CONN. GEN. STAT. (2001).
§ 46b-84 (d). In determining whether a child is in need of maintenance and, if in need, the respective abilities of the parents to provide such maintenance and the amount thereof, the court shall consider the age, health, station, occupation, earning capacity, amount and sources of income, estate, vocational skills and employability of each of the parents, and the age, health, station, occupation, educational status and expectation, amount and sources of income, vocational skills, employability, estate and needs of the child. [as amended by P.A. 97-321 §1]
§ 46b-215b(b). “In any proceeding for the establishment or modification of a child support award, the child support guidelines shall be considered in addition to and not in lieu of the criteria for such awards established in sections 46b-84”
- CASES:**
- Unkelbach v. McNary, 244 Conn. 350, 355, 710 A.2d 717 (1998). “In deciding upon the modified amount of child support to be ordered, the court considered the defendant’s present ability to pay. In that regard, it found that the defendant’s gross income included amounts contributed by . . . [domestic partner] toward their household expenses.”
 - Battersby v. Battersby, 218 Conn. 467, 471-472, 590 A.2d 427 (1991) “the Guidelines themselves list several factors that may be relevant to the determination of support amount, including the ‘needs of a second or prior family’ and ‘other reasonable considerations.’”
 - Vickery v. Vickery, 25 Conn. App. 555, 562, 595 A.2d 905 (1991). “Finally, the defendant claims that it is impossible for the court to apply the mandates of 46b-84 and 46b-86 and apply the mandates of the guidelines at the same time. This claim is without merit.”
- WEST KEY NUMBERS:**
- *Divorce* # 306. Grounds for award as to support
- DIGESTS:**
- CONNECTICUT FAMILY LAW CITATIONS: *Child Support*
- ENCYCLOPEDIAS:**
- Jay M. Zitter, Annotation, *Excessiveness Or Adequacy Of Money Awarded As Child Support*, 27 ALR4th 864 (1984).
 - Jay M. Zitter, Annotation, *Excessiveness Or Adequacy Of Amount Of Money Awarded For Alimony And Child Support Combined*, 27 ALR4th 1038 (1984).
- TEXTS & TREATISES:**
- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
Chapter 38. Child Support
§ 38.11. Factors affecting amount of support required
§ 38.13. Statutory factors for determining child’s need
§ 38.14. Parent’s ability to provide support

§ 38.15. Statutory factors for determining parents' respective abilities

- BARBARA STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
Chapter 8. Child Support
"If the guidelines do not apply to you," pp. 154-155

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Table 13 Statutory Factors in Determining Child Support

Conn. Gen. Stats. §46b-84 (2001)	
FACTORS RELATING TO PARENTS	Rutkin*
earning capacity	§ 37.15
length of the marriage	§ 37.15
causes for the annulment, dissolution of marriage or legal separation	§ 37.15
age	§ 37.15
health	§ 37.15
station	§ 37.15
occupation	§ 37.15
amount and sources of income	§ 37.15
vocation skills	§ 37.15
employability	§ 37.15
estate	§ 37.15
needs of each of the parties	§ 37.15
in the case of a parent to whom the custody of minor children has been awarded, the desirability of such parent's employment	§ 37.15
FACTORS RELATING TO CHILDREN	
age	§§ 37.11-37.13
health	§§ 37.11-37.13
station	§§ 37.11-37.13
occupation	§§ 37.11-37.13
educational status and expectation	§§ 37.11-37.13
amount and sources of income	§§ 37.11-37.13
vocational skills	§§ 37.11-37.13
employability	§§ 37.11-37.13
estate	§§ 37.11-37.13
needs	§§ 37.11-37.13

*8 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).

§ 2.6 Enforcement

2002 Edition

SCOPE: Bibliographic resources relating to enforcement of child support orders including both state and federal laws.

DEFINITIONS:

- “**Contempt** is a disobedience to the rules and orders of a court which has power to punish for such an offense A **civil contempt** is one in which the conduct constituting the contempt is directed against some civil right of an opposing party and the proceeding is initiated by him.” (emphasis added) *Stoner v. Stoner*, 163 Conn. 345, 359, 307 A.2d 146 (1972)
- **IV-D:** “the child support enforcement program mandated by Title IV-D of the federal Social Security Act and implementing OCSE[federal Office of Child Support Enforcement] regulations, as implemented in Connecticut under section 17b-179 of the Connecticut General Statutes and related statutes and regulations.” CONN. AGENCIES REGS. (1998) § 17b-179(a)-1(12)
- “The fact that the order had not been complied with fully, however, does not dictate that a finding of contempt must enter. It is within the sound discretion of the court to deny a claim for contempt when there is an adequate factual basis to explain the failure to honor the court's order.” *Marcil v. Marcil*, 4 Conn. App. 403, 405, 494 A.2d 620 (1985).

STATUTES:

- CONN. GEN. STAT. (2001) *see* Table 4, *infra*
§ 46b-231(m)(7). Family support magistrates shall enforce orders for child and spousal support entered by such family support magistrate and by the Superior Court in IV-D support cases.
- U.S. CODE (2002)
42 U.S.C. §§ 651-669. Title IV-D of the Social Security Act *see* Table 8, *infra*

LEGISLATIVE:

- Lawrence K. Furbish, *Child Support Enforcement in Connecticut*, Connecticut General Assembly. Office of Legislative Research Report 99-R-0983 (October 6, 1999). <http://www.cga.state.ct.us/ps99/rpt/olr/htm/99-r-0983.htm>
“how Connecticut state agencies help parents collect child support”
- Lawrence K. Furbish, *Child Support Enforcement In Connecticut And Other States*, Connecticut General Assembly. Office of Legislative Research Report 98-R-0437 (March 27, 1998). <http://www.cga.state.ct.us/ps98/rpt/olr/98-r-0437.doc>
Description of child enforcement laws in Connecticut with emphasis on collection process. Also, describes innovative methods used in other states.
- Lawrence K. Furbish, *Child Support Collection And Enforcement*, Connecticut General Assembly. Office of Legislative Research Report 98-R-1489 (December 7, 1998). <http://www.cga.state.ct.us/ps98/rpt/olr/98-r-1489.doc>
You asked how many people have had their licenses suspended for child support collection purposes, if support collection agencies can obtain arrest information to aid in finding people owing support, and for copies of OLR reports dealing with child support collection efforts in Connecticut and other states.

REGULATIONS:

- CONN. AGENCIES REGS. (2002)
 - Title IV-D Program § 17b-179
 - § 17b-179(a)-2. Publication of names of delinquent obligors
 - § 17b-179(f)-1. Referrals to the federal parent locator service
 - § 17b-179(i)-1. Non-AFDC application fee
 - § 17b-179(m)-2. Location of absent parents
 - § 17b-179(m)-6. Collection of support payments
 - § 17b-179(m)-7. Medical support
 - § 17b-179(m)-9. Enforcement of support orders
 - § 52-362d-2. Child support liens
 - § 52-362d-3. Reporting overdue support to consumer reporting agency
 - § 52-362d-4. Withholding of lottery winnings
 - § 52-362e-2. Withholding of federal income tax refunds
 - § 52-362e-3. Withholding of state income tax refunds

FORMS:

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000)
 - § 34.6. Motion for contempt—Form
 - § 34.7. Application for contempt citation and order to show cause—Form
 - § 34.9. Schedule for production at hearing—Form

CASES:

- Sablosky v. Sablosky, 258 Conn. 713, 720, 784 A.2d 890 (2001). “The appropriate remedy for doubt about the meaning of a judgment is to seek a judicial resolution of any ambiguity; it is not to resort to self-help.”
- Eldridge v. Eldridge, 244 Conn. 523, 529, 710 A.2d 757 (1998). “A good faith dispute or legitimate misunderstanding of the terms of an alimony or support obligation may prevent a finding that the payor's nonpayment was wilful. This does not mean, however, that such a dispute or misunderstanding will preclude a finding of wilfulness as a predicate to a judgment of contempt. Whether it will preclude such a finding is ultimately within the trial court's discretion.”

WEST KEY NUMBERS:

- *Divorce* # 311. Enforcement of order, judgment, or decree as to support

ENCYCLOPEDIAS:

- 24A AM. JUR. 2D *Divorce and Separation* (1998).
 - §§ 1051-1078. Enforcement of child support orders or decrees
 - §§ 1069-1074. Contempt
 - §§ 1075-1078. Defenses
 - §§ 1066-1068. Setoff or credits
- 23 AM. JUR. 2D *Desertion and Nonsupport* (1983).
 - §§ 1-70. Criminal offense
- John C. Williams, Annotation, *Laches Or Acquiescence As Defense So As To Bar Recovery Of Arrearage Of Permanent Alimony Or Child Support*, 5 ALR4th 1015 (1981).

TEXTS & TREATISES:

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
 - Chapter 34. Enforcement of alimony and child support provisions of judgment
 - § 34.4. Contempt proceedings generally
 - § 34.5. Contempt procedure
 - § 34.8. Hearing

- § 34.10. Necessity of counsel in contempt proceedings
- § 34.11. Excuse or defense to contempt claim
- § 34.12. Inability to comply
- § 34.13. Irregularities or uncertainties as to terms of original order
- § 34.14. Laches and/or estoppel as a defense to contempt
- § 34.15. Estoppel—in kind payments or other modifications
- § 34.16. Misconduct by the complaining party
- § 34.17. Contempt penalties and terms of payment
- § 34.18. Contempt penalties—incarceration
- § 34.19. Criminal action based on non-payment of alimony
- § 34.20. Enforcement of alimony against property
- § 34.27. Claims for interest and/or damages
- 8A ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
 - Chapter 56. Federal law affecting Connecticut domestic relations practice
 - § 56.4. Federal role in child support enforcement
- 3 JOEL M. KAYE ET AL., CONNECTICUT PRACTICE SERIES, PRACTICE BOOK ANNOTATED, *Authors' comments* following Form 506.2 (1996).
- 5 ARNOLD H. RUTKIN ET AL., FAMILY LAW AND PRACTICE (2002).
 - Chapter 48. Interstate Support Proceedings
 - § 48.03. Uniform Interstate Family Support Act
 - § 48.08. Child support actions in state court
 - § 48.09. Enforcing an order across state lines without leaving home
 - § 48.11. Enforcement across national boundaries
 - § 48.12. Non-support as an interstate crime
 - § 48.13. Support enforcement in federal court
- MARION F. DOBBS ET AL., ENFORCING CHILD AND SPOUSAL SUPPORT (1995).
 - Chapter 1. Introduction to support enforcement
 - Chapter 2. First steps
 - Chapter 3. Locating obligor and obligator's income and assets
 - Chapter 4. State agency enforcement of support
 - I. Federal mandates for child support enforcement
 - II. Child support enforcement at the federal level
 - III. Child support at the state level
 - V. Application procedures for AFDC custodial parents
 - VI. Application procedures for non-AFDC custodial parents
 - VII. Parent locator service
 - XIV. Income withholding
 - XV. Federal and state tax refund intercept
 - XVI. Reports to consumer reporting agencies
 - XVII. Lien, levy and seizure of assets
 - XVIII. IRS full collection
 - XX. Licensing revocation
 - XXI. Lottery intercept
 - Chapter 5. Court remedies
 - V. Civil contempt
 - VI. Counsel fees, expenses and sanctions
 - VII. Fraudulent conveyances
 - VIII. Defenses to enforcement
 - X. Criminal penalties
 - Chapter 8. Medical support enforcement
 - Chapter 9. Enforcement related to particular groups

- I. Military and federal civilian employees
- II. Native Americans
- III. Self-employed obligors

LAW REVIEWS:

- *Calculating And Collecting Child Support: Sixteen Years After The Guidelines...And Counting*, 23 FAMILY ADVOCATE no. 2 (Fall 2000). Special issue.
 - Diane M. Fray, *Strong-Arm Enforcement*, p. 42
 - Janet Atkinson, *Long-Arm Collections*, p.46
 - Darrell Baughn, *Throw The Book At Deadbeat Parents*, p. 49
 - Gary Caswell, *Making Long-Distance Parents Pay Up*, p. 52

COMPILER:

Compiled by Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Branch Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560. EMAIL: Lawrence.cheeseman@jud.state.ct.us

Table 14 Connecticut Statutes Enforcing Child Support

<p>“Connecticut child support enforcement legislation clearly evinces a strong state policy of ensuring that minor children receive the support to which they are entitled.”</p> <p style="text-align: right;"><u>In re Bruce R.</u>, 234 Conn. 194, 209, 662 A.2d 107 (1995)</p>	
§ 46b-212 et seq.	Uniform Interstate Family Support Act Enforcement of out-of-state support orders .
§ 46b-220	Suspension of license of delinquent child support obligor.
§ 52-362	Withholding wage and unemployment compensation for support. Note: Income “means any periodic form of payment due to an individual, regardless of source, including, but not limited to, disposable earnings, workers' compensation and disability benefits, payments pursuant to a pension or retirement program and interest” § 52-362(a)(5).
§ 52-362d(a)	. . . the State shall have a lien on any property , real or personal
§ 52-362d(b)	“The state shall report to any participating consumer reporting agency, as defined in 15 U.S.C. § 1681a(f), information regarding the amount of such overdue support owed by an obligor if the amount of such overdue support is one thousand dollars or more, on a computer tape in a format acceptable to the consumer reporting agency.”
§ 52-362d(c)	The Comptroller . . . shall withhold any order upon the Treasurer for payment due from winnings pursuant to chapter 226 [lotteries] to such person unless the amount payable is first reduced by the amount of such claim for support owed to an individual for any portion of support which has not been assigned to the state and then by the amount of such claim for support owed to the state
§ 52-362e	Withholding income tax refunds [state and federal] in amount equal to support arrearage.
§ 53-304(a)	Any person who neglects or refuses to furnish reasonably necessary support to his spouse, child under the age of eighteen or parent under the age of sixty-five shall be deemed guilty of nonsupport and shall be imprisoned not more than one year

**Table 15 Federal Statutes & Regulations Enforcing
Child Support**

Title IV-D of the Social Security Act 42 U.S.C. §§651 to 669 (2002)	
<i>“ . . . current federal child support enforcement legislation clearly demonstrates a federal policy of ensuring the financial support of children by their parents.” <u>In re Bruce R.</u>, 234 Conn. 194, 209 (1995)</i>	
42 USC § 652(a)	Establishes federal agency: Office of Child Support Enforcement (OCSE)
42 USC § 653	Federal Parent Locator Service (FPLS)
42 USC § 654	State plan for child and spousal support
42 USC § 656	Support obligation as obligation to state; discharge in bankruptcy
42 USC § 659	Consent by the United States to income withholding, and similar proceedings of child support and alimony obligations
42 USC § 660	Civil action to enforce child support obligations
42 USC § 661	Regulations pertaining to garnishments
42 USC § 663	Use of Parental Locator Service (PLS) in connection with the enforcement or determination of child custody and in case of parental kidnapping of a child
42 USC § 664	Collection of past-due support from Federal tax refunds
42 USC § 665	Allotments from pay for child and spousal support owed by members of the uniformed services on active duty
42 USC § 666	Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

Table 7 [cont'd]

Federal Regulations 45 CFR Part 302-303	
§ 302.33	Services to individuals not receiving AFDC or Title IV-E foster care assistance
§ 302.35	State parent locator service
§ 302.36	Provisions of services in interstate IV-D cases
§ 302.56	Guidelines for setting child support awards
§ 302.60	Collection of past-due support from Federal tax refunds
§ 302.65	Withholding of unemployment compensation
§ 302.70	Required State laws
§ 302.80	Medical support enforcement
§ 303.3	Location of noncustodial parents
§ 303.31	Securing and enforcing medical support obligations
§ 303.71	Requests for full collection services by the Secretary of the Treasury
§ 303.72	Requests for collection of past-due support by Federal tax refund offset
§ 303.73	Applications to use the courts of the United States to enforce court orders

Table 16 History of Federal Legislation Dealing with Child Support

1950	Social Security Amendments of 1950	P.L. No. 81-734, 64 Stat. 549	42 USC § 602(a)(11)
1967	Social Security Amendments of 1967	P.L. No. 90-248, 81 Stat. 896	42 USC § 602(a)(17)
1975	Federal Child Support Enforcement Program (Title IV-D)	P.L. 93-647, 88 Stat. 2337	42 USC §§651-669
1984	Child Support Enforcement Amendments of 1984*	P.L. 98-378, 98 Stat. 1305	42 USC §§651-669
1988	Family Support Act of 1988*	P.L. 100-485 P.L. 100-647	42 USC §§651-669
1993	Omnibus Budget Reconciliation Act of 1993	P.L. 103-66	42 USC §§651-669
1996	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	P.L. 104-193	42 USC §§651-669
1998	Child Support Performance and Incentive Act of 1998	P.L. 105-200	42 USC §658a
	Deadbeat Parents Punishment Act of 1998	P.L. 105-187	18 USC §228 note
1999	Foster Care Independence Act of 1999	P.L. 106-169	42 USC 677 note
2000	National Family Caregiver Support Act	P.L. 106-501	42 USC 3001 note

Table 17 Agencies Involved in Child Support

Federal (OCSE)	Office of Child Support Enforcement Administration for Children and Families Department of Health and Human Services 370 L'Enfant Promenade SW Washington, DC 20447 Tel. (202) 401-9373 <u>Internet address:</u> http://www.acf.dhhs.gov/programs/cse/	<i>42 U.S.C. § 652(a)</i>
State (BCSE)	Bureau of Child Support Enforcement Department of Social Services 25 Sigourney Street Hartford, CT 06106 Tel. (860)424-5251 VOICES 1-800-647-8872 automated information system about services provided by the state Information and Problem Resolution Unit 1-800-228-KIDS <u>Internet address:</u> CHILD SUPPORT RESOURCE CENTER http://www.dss.state.ct.us/cscc/cscc.htm	CONN. GEN. STATS. § 17b-179 § 46b-231(u). Powers of Department of Social Services
Court (SED)	Support Enforcement Division of the Superior Court <u>Internet address:</u> http://www.jud.state.ct.us/directory/directory/administrative/supcourtops.htm#Support Enforcement Division	CONN. GEN. STATS. § 46b-231(s) Duties of support enforcement officers
Attorney General (AG)	Attorney General of the State of Connecticut 55 Elm Street Hartford, CT 06106 Tel. (860) 566-4998 <u>Internet address:</u> http://www.cslib.org/attysgen/	CONN. GEN. STATS. § 46b-231(t)

Table 18 Child Support and Parental Agreements

Cases	
<u>Brent v. Lebowitz</u> , 67 Conn. App. 527, 532, 787 A.2d 621, <i>cert. granted</i> , 260 Conn. 902 (2002).	“Accordingly, support agreements that are not in accordance with the financial dictates of the guidelines are not enforceable unless one of the guidelines’ deviation criteria is present, such as when the terms of the agreement are in the best interest of the child.”
<u>In re Bruce R.</u> , 234 Conn. 194, 210-211, 662 A.2d 107 (1995).	“In addition, we repeatedly have recognized that children must be supported adequately . . . This commitment would be undermined if we permitted a consensual petition, which frees the petitioner from any further obligations to support his or her children, to be granted without considering the financial condition of the parents.”
<u>Masters v. Masters</u> , 201 Conn. 50, 67-68, 513 A.2d 104 (1986)	“To ensure that the court’s ultimate, nondelegable responsibility to protect the best interests of the child is not short-circuited by this process, some courts have devised special provisions for court review, permitting a full de novo hearing under certain specified circumstances.”
<u>Guille v. Guille</u> , 196 Conn. 260, 265, 492 A.2d 175 (1985)	“In light of the legislature’s evident concern for the rights of minor children in marital dissolution proceedings, we cannot conclude that General Statutes 46b-86 (a) was designed to change the common law and permit divorcing parents, by stipulation incorporated into the divorce decree, to contractually limit their children’s right to support.”
<u>Burke v. Burke</u> , 137 Conn. 74, 80, 75 A.2d 42 (1950)	“ This is because no such contract by a father can restrict or preclude the power of the court to decree what he shall pay for the support of a dependent minor child. A husband and wife cannot make a contract with each other regarding the maintenance or custody of their child which the court is compelled to enforce, nor can the husband relieve himself of his primary liability to maintain his child by entering into a contract with someone else to do so. The welfare of the child is the primary consideration.”
<u>In re Juvenile Appeal</u> (85-BC), 195 Conn. 344, 352, 488 A.2d 790 (1985)	“We recognize initially that the established public policy in this state is ‘[t]o protect children whose health and welfare may be adversely affected through injury and neglect; to strengthen the family and to make the home safe for children. . . .’”
<u>In re Juvenile Appeal</u> (83-DE), 190 Conn. 310, 318-319, 460 A.2d 1277 (1983)	“Parents have a constitutionally protected right to raise and care for their own children. <u>Stanley v. Illinois</u> , 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972). This right is not free from intervention by the state, however, when the continuing parens patriae interest of the state in the well being of children is deemed by law to supercede parental interests.”
<u>State v. Anonymous</u> , 179 Conn. 155, 170-171, 425 A.2d 939 (1979)	“It is important to note in this relation that the ultimate standard underlying the whole statutory scheme regulating child welfare is the ‘best interest of the child’ . . . This furthers the express public policy of this state to provide all of its children a safe, stable nurturing environment.”

Table 10 Child Support and Parental Agreements [cont'd]

ALR Annotations

- Annotation, *Validity And Effect Of Agreement Between Former Spouses Releasing Parent From Payment Of Child Support Provided For In An Earlier Divorce Decree*, 100 ALR3d 1129 (1980).
- Annotation, *Power Of Court To Modify Decree For Support Of Child Which Was Based On Agreement Of Parties*, 61 ALR3d 657 (1975).

§ 2.7 Out-of-State Child Support Orders in Connecticut Courts

2002 Edition

SCOPE:

Bibliographic resources relating to the recognition and enforcement of foreign matrimonial judgments in Connecticut courts effective January 1, 1998

DEFINITIONS:

- **FOREIGN MATRIMONIAL JUDGMENT:** “means any judgment, decree or order of a court of any state in the United States in an action for divorce, legal separation, annulment or dissolution of marriage, for the custody, care, education, visitation, maintenance or support of children or for alimony, support or the disposition of property of the parties to an existing or terminated marriage, in which both parties have entered an appearance.” CONN. GEN. STAT. § 46b-70 (2001).
- **REGISTRY OF SUPPORT ORDERS:** “A support order or an income withholding order issued by a tribunal of another state may be registered in this state for enforcement with the register of support orders of the Family Support Magistrate Division maintained by the Support Enforcement Division of the Superior Court.” CONN. GEN. STAT. § 46b-213g (2001).
- **THRESHOLD REQUIREMENT:** “The requirement of the **entry of an appearance by both parties** is a ‘threshold requirement for enforcement’ pursuant to the statute [CONN. GEN. STAT. § 46b-71 (2001)] Even a one time special appearance in another state to contest jurisdiction is sufficient to allow enforcement in Connecticut of a judgment subsequently rendered for support arrearages obtained in the other state The statutory language reflects the intent of the legislature to ensure that both parties have actual notice of an out of state proceeding, and to preclude adoption of foreign judgments obtained by a default in appearance Even states with statutes that specifically preclude enforcement of default judgments will enforce judgments obtained by default where a party has defaulted in pleading after an initial appearance.” Rule v. Rule, 6 Conn. App. 541, 544, 506 A.2d 1061 (1986). [emphasis added]

STATUTES:

- CONN. GEN. STAT. (2001)
 - Chapter 815j. Dissolution of marriage, legal separation and annulment
 - § 46b-70. Foreign matrimonial judgment defined
 - § 46b-71. Filing of foreign matrimonial judgment; enforcement in this state
 - § 46b-72. Notification of filing
 - § 46b-73. Stay of enforcement; modifications; hearing
 - § 46b-74. Right to action on foreign judgment unimpaired
 - § 46b-75. Uniformity of interpretation
 - Chapter 816. Support
 - § 46b-213g. Registration of order for enforcement
 - § 46b-213h. Procedure to register order for enforcement
 - § 46b-213i. Effect of registration for enforcement
 - § 46b-213j. Choice of law
 - § 46b-213k. Notice of registration of order
 - § 46b-213l. Procedure to contest validity or enforcement of a registered order
 - § 46b-213m. Contesting the validity or enforcement; grounds

REGULATIONS:

- CONN. AGENCIES REGS. (October 2000)
Title IV-D Child Support Enforcement Program
§ 17b-179(m)-5. Establishment of support order
§ 17b-179(m)-10. Provision of services in interstate IV-D cases
 - (a) Central registry
 - (b) Responding state functions
 - (c) Initiating state functions

CASES:

- Colby v. Colby, 33 Conn. App. 417, 421, 635 A.2d 1241 (1994). “While this court has the authority to determine jurisdiction; . . . we are unable to determine from the record whether the plaintiff here ever filed an appearance in the divorce proceedings in accordance with the Massachusetts rules of civil procedure. The threshold requirement for enforcement of the foreign matrimonial judgment not having been satisfied leaves unresolved the question of the jurisdiction of the trial court. This court is not in a position to hold a hearing to determine this fact and thus remands the case to the trial court for a hearing to determine whether the threshold issue has been met.”
- Rule v. Rule, 6 Conn. App. 541, 545, 506 A.2d 1061 (1986). “The purpose of General Statutes 46b-70 and 46b-71 is to prevent a defendant from avoiding the execution of a valid and enforceable judgment by fleeing the jurisdiction.”

**WEST KEY
NUMBERS:**

- *Divorce* # 403. Foreign divorces, support of children

ENCYCLOPEDIAS:

- 23 AM. JUR. 2D *Desertion and nonsupport* (1983).
 - §§ 71-83. Uniform acts
 - §§ 71-73. In general
 - §§ 74-83. Interstate enforcement of support order
- *Interstate Enforcement of Child Support Orders*, 37 AM JUR TRIALS 639 (1988).
- Kurtis A. Kemper, Annotation, *Construction And Application Of Uniform Interstate Family Support Act*, 90 ALR5th 1 (2001).

**TEXTS &
TREATISES:**

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000). . .
Chapter 34. Enforcement of alimony
§ 34.28. Limitations on income withholding
- 8A ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
Chapter 55. Foreign Divorces
§ 55.5. Necessity that both parties appeared in foreign action
§ 55.12. Enforcement of foreign judgments—Stays or modification

LAW REVIEWS:

- ERIC PIERSON, ED., 2001 FAMILY LAW UPDATE (2001).
Chapter 1. Interstate child support
 - § 1.03. Locating non-custodian parents and their assets
 - § 1.04. Family violence in interstate child support
 - § 1.05. Uniform Interstate Family Support Act
 - § 1.06. Non-UIFSA enforcement options

COMPILER:

Compiled by Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Branch Law Library at Middletown, One Court Street, Middletown, CT

Table 19 Connecticut's Long Arm Statute

Jurisdiction over nonresident party for child support	
§ 46b-212d	Subject to the provisions of subsection (b) of section 46b-46, as amended by section 52 of this act, in a proceeding to establish, enforce or modify a support order or to determine paternity, a tribunal of this state may exercise personal jurisdiction over a nonresident individual if: (1) The individual is personally served with process within this state; (2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance and failing to object to jurisdiction in a timely manner, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction; (3) the individual resided with the child in this state; (4) the individual resided in this state and provided prenatal expenses or support for the child; (5) the child resides in this state as a result of the acts or directives of the individual; (6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or (7) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.
§ 46b-46	(b) The court may exercise personal jurisdiction over the nonresident party as to all matters concerning temporary or permanent alimony or support of children, only if: (1) The nonresident party has received actual notice under subsection (a) of this section; and (2) the party requesting alimony meets the residency requirement of section 46b-44.
§ 46b-44	(c) A decree dissolving a marriage or granting a legal separation may be entered if: (1) One of the parties to the marriage has been a resident of this state for at least the twelve months next preceding the date of the filing of the complaint or next preceding the date of the decree; or (2) one of the parties was domiciled in this state at the time of the marriage and returned to this state with the intention of permanently remaining before the filing of the complaint; or (3) the cause for the dissolution of the marriage arose after either party moved into this state.

Table 20 Enforcement of Foreign Matrimonial Judgments

CONN. GEN. STAT. § 46b-71 (2001)

- (a) Any party to an action in which a foreign matrimonial judgment has been rendered, shall file, with a certified copy of the foreign matrimonial judgment, in the court in this state in which enforcement of such judgment is sought, a certification that such judgment is final, has not been modified, altered, amended, set aside or vacated and that the enforcement of such judgment has not been stayed or suspended, and such certificate shall set forth the full name and last-known address of the other party to such judgment and the name and address of the court in the foreign state which rendered such judgment.
- (b) Such foreign matrimonial judgment shall become a judgment of the court of this state where it is filed and shall be enforced and otherwise treated in the same manner as a judgment of a court in this state; provided such foreign matrimonial judgment does not contravene the public policy of the state of Connecticut. A foreign matrimonial judgment so filed shall have the same effect and may be enforced or satisfied in the same manner as any like judgment of a court of this state and is subject to the same procedures for modifying, altering, amending, vacating, setting aside, staying or suspending said judgment as a judgment of a court of this state; provided, in modifying, altering, amending, setting aside, vacating, staying or suspending any such foreign matrimonial judgment in this state the substantive law of the foreign jurisdiction shall be controlling.

Table 21 Uniform Interstate Family Support Act

<p>§ 46b-212a as amended by 2001 CONN. ACTS 91 § 8 (REG. SESS.)</p>	<p>Definitions:</p> <p>(8). "Initiating state" means a state from which a proceeding is forwarded under sections 46b-212 to 46b-213v, inclusive, as amended by this act, or a law or procedure substantially similar to said sections, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.</p> <p>(17). "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing under sections 46b-212 to 46b-213v, inclusive, as amended by this act, or a law or procedure substantially similar to said sections, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.</p>
<p>§ 46b-213h as amended by 2001 CONN. ACTS 91 § 14 (REG. SESS.)</p>	<p>Procedure to register</p> <p>(a) A support order or income withholding order of another state may be registered in this state by sending the following documents and information to Support Enforcement Services for filing in the registry of support orders of the Family Support Magistrate Division: (1) A letter of transmittal to Support Enforcement Services requesting registration and enforcement; (2) two copies, including one certified copy, of all orders to be registered, including any modification of an order; (3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage; (4) the name of the obligor and, if known: (A) The obligor's address and Social Security number; (B) the name and address of the obligor's employer and any other source of income of the obligor; and (C) a description and the location of property of the obligor in this state not exempt from execution; (5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted; and (6) a statement disclosing whether or not any other action or proceeding is currently pending concerning the support of the child who is the subject of such support order.</p> <p>(b) On receipt of a request for registration, Support Enforcement Services shall cause the order to be filed as a foreign judgment in the registry of support orders of the Family Support Magistrate Division, together with one copy of the documents and information, regardless of their form.</p> <p>(c) A petition or comparable pleading seeking a remedy that is required to be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.</p>
<p>§ 46b-213j</p>	<p>Choice of law (a) The law of the issuing state governs the nature, extent, amount and duration of current payments and other obligations of support and the payment of arrearages under the order.</p>

Table 13. Uniform Family Support Act [cont'd]

§ 46b-213l	<p>Procedures to contest registration and enforcement</p> <p>(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing before the Family Support Magistrate Division within twenty days after the date of mailing or personal service of notice of the registration.</p> <p>The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 46b-213m.</p> <p>(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.</p> <p>(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the Family Support Magistrate Division shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time and place of the hearing.</p>
§ 46b-213q	<p>Modification of out of state child support order.</p> <p>(a) After a child support order issued in another state has been registered in this state, a family support magistrate may modify that order only if subsection (e) of this section does not apply and, after notice and hearing, such magistrate finds that: (1) The following requirements are met: (A) The child, the individual obligee and the obligor do not reside in the issuing state; (B) a petitioner who is a nonresident of this state seeks modification; and (C) the respondent is subject to the personal jurisdiction of the Family Support Magistrate Division; or (2) the child or party who is an individual is subject to the personal jurisdiction of the Family Support Magistrate Division and all of the parties who are individuals have filed written consents in the issuing tribunal for a family support magistrate to modify the support order and assume continuing exclusive jurisdiction over the order provided if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to sections 46b-212 to 46b-213v, inclusive, the consent otherwise required of an individual residing in this state is not required for the family support magistrate to assume jurisdiction to modify a child support order.</p> <p>(b) Modification of a registered child support order is subject to the same requirements, procedures and defenses that apply to the modification of an order issued by the Family Support Magistrate Division and the order may be enforced and satisfied in the same manner.</p> <p>(c) A family support magistrate may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and shall be so recognized under section 46b-212j establishes the aspects of the support order which are nonmodifiable.</p> <p>(d) On issuance of an order modifying a child support order issued in another state, the Family Support Magistrate Division becomes the tribunal of continuing exclusive jurisdiction.</p> <p>(e) (1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, the Family Support Magistrate Division has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.</p>

Table 13. Uniform Family Support Act [cont'd]

§46b-213r	<p>Recognition of child support order modified by another state. The Family Support Magistrate Division or Superior Court shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to sections 1 to 50, inclusive, of this act and, upon request, except as otherwise provided in said sections, shall: (1) Enforce the order that was modified only as to amounts accruing before the modification; (2) enforce only nonmodifiable aspects of that order; (3) provide other appropriate relief only for violations of that order which occurred before the effective date of modification; and (4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.</p>
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§ 2.8 Duration and Termination

2002 Edition

- SCOPE:** Bibliographic resources relating to the duration of child support obligations including post majority support
- DEFINITIONS:**
- **AGE OF MAJORITY:** “shall be deemed to be eighteen years.” CONN. GEN. STAT. § 1-1d (2001).
 - **EDUCATIONAL SUPPORT ORDER:** “an order entered by a court requiring a parent to provide support for a child or children to attend for up to a total of four full academic years an institution of higher education or a private occupational school for the purpose of attaining a bachelor's or other undergraduate degree, or other appropriate vocational instruction. An educational support order may be entered with respect to any child who has not attained twenty-three years of age and shall terminate not later than the date on which the child attains twenty-three years of age.” 2002 CONN. ACTS 128 § 1(a) (REG. SESS.), eff. 10/1/02.
- STATUTES:**
- CONN. GEN. STAT. (2001)
 - § 46b-84. **Parents’ obligation for maintenance of minor child. Order of health insurance coverage**
 - (b) If there is an unmarried child of the marriage who has attained the age of eighteen, is a full-time high school student and resides with a parent, the parents shall maintain the child according to their respective abilities if the child is in need of maintenance until such time as such child completes the twelfth grade or attains the age of nineteen, whichever first occurs. The provisions of this subsection shall apply only in cases where the decree of dissolution of marriage, legal separation or annulment is entered on or after July 1, 1994.
 - (c) The court may make appropriate orders of support of any child with mental retardation, as defined in section 1-1g, or a mental disability or physical disability, as defined in subdivision (15) of section 46a-51, who resides with a parent and is principally dependent upon such parent for maintenance until such child attains the age of twenty-one. The Child Support Guidelines established pursuant to section 46b-215a shall not apply to orders entered under this subsection. the provisions of this subsection shall apply only in cases where the decree of dissolution of marriage, legal separation or annulment is entered on or after the effective date of this subsection or where the initial support orders in actions not claiming any such decree are entered on or after the effective date of this act. [added by P.A. 97-321 §1]
 - § 46b-66. **Review of agreements; incorporation into decree**

If the agreement is in writing and provides for the care, education, maintenance or support of a child beyond the age of eighteen, it may also be incorporated or otherwise made a part of any such order and shall be enforceable to the same extent as any other provision of such order or decree, notwithstanding the provisions of section 1-1d.
 - 2002 CONN. ACTS 128 (Reg. Sess.). An act concerning Educational Support Orders [eff. October 1, 2002].

LEGISLATIVE HISTORIES:

- [Preliminary Legislative History of Public Act No. 02-128: an act concerning educational support orders](#)
- [Legislative history of Public Act No. 94-61: an act concerning post majority support \(high school and certain post secondary education\)](#)
- [Legislative history of Public Act No. 97-321: an act concerning post majority child support \(dependent disabled child\)](#)

LEGISLATIVE REPORTS:

- [Susan Price-Livingston, *Post-Majority Child Support Laws*, OLR Research Report No. 2002-R-0101 \(January 23, 2002\).](#)
“laws in other states that authorize courts to issue child support orders that continue while students are enrolled in college or other post-secondary education or job training programs.”

CASES:

- [Eidson v. Eidson](#), No. 646-98-0060, 2002 Ct. Sup. 3503, 3508, 2002 WL 532401 (Mar. 13, 2002). “For example, parents may provide for support of a child beyond the age of eighteen by written agreement which is enforceable by the court notwithstanding that such child is an adult. General Statutes § 46b-66. Child support orders pursuant to dissolution of marriage, legal separation or annulment after July 1, 1994 are extended by statute to age nineteen or completion of high school. General Statutes § 46b-84 (b). Support for a child who is disabled or mentally retarded may extend to age twenty-one. General Statutes § 46b-84 (c). Thus recognition of a foreign order with a duration that extends beyond the Connecticut age of majority is not violative of the public policy of this state since it is mandated by statute.”
- [Keeys v. Keeys](#), 43 Conn. App. 575, 577, 684 A.2d 1214 (1996). “There was no written agreement in this case and the plaintiff concedes that the court lacked jurisdiction to extend postmajority orders until age twenty-two.”
- [Hirtle v. Hirtle](#), 217 Conn. 394, 400-401, 586 A.2d 578 (1991). “a written agreement is a jurisdictional prerequisite to be the valid modification of an order for postmajority support.”
- [Miller v. Miller](#), 181 Conn. 610, 613-614, 436 A.2d 279 (1980). *Order requiring child support after child reached the age of majority is beyond subject matter of the court.*
- [Town v. Anonymous](#) (1983-6), 39 Conn. Sup. 35, 38, 467 A.2d 687 (1983). “While current law permits a minor to move out of her parents' home without legal sanction, it does not compel her parents to pay the bill for whatever lifestyle she may select. Parents who offer a home, food, shelter, medical care and other necessities of life to their minor child have adequately discharged their obligation of support under § 46b-215 and are not subject to orders of support.”
- [Mills v. Theriault](#), 40 Conn. Supp. 349499 A.2d 89 (1985). *Emancipation and support obligation.*
- [Van Wagner v. Van Wagner](#), 1 Conn. App. 578, 583-584, 474 A.2d 110 (1984). “Connecticut public policy does not prohibit the enforcement of a foreign contempt order, requiring a defendant to pay for support of a child beyond the age of eighteen years pursuant to an agreement which is incorporated in a dissolution decree executed in another state and which agreement, as to support payments, is consonant with the laws of that state both as of the date of the dissolution and as of the date of the contempt order.”

WEST KEY NUMBERS:

- *Divorce* # 310. Duration and termination of liability for support
- *Parent & Child* # 3.1(4) Adult Children

DIGESTS:

- CONNECTICUT FAMILY LAW CITATIONS:
CHILD SUPPORT
Post age 18 support
Post-majority support

ENCYCLOPEDIAS:

- 24 AM. JUR. 2D *Divorce and Separation* (1998).
§§ 1038-1046. Duration and termination of award
- Susan L. Thomas, Annotation, *Death Of Obligor Parent As Affecting Decree For Support Of Child*, 14 ALR5th 557 (1993).
- Todd R. Smyth, Annotation, *Child Support: Court's Authority To Reinstate Parent's Support Obligation After Terms Of Prior Decree Have Been Fulfilled*, 48 ALR4th 952 (1986).
- Noralyn O. Harlow, Annotation, *Postmajority Disability As Reviving Parental Duty To Support Child*, 48 ALR4th 919 (1986).
- Jay M. Zitter, Annotation, *Postsecondary Education As Within Nondivorced Parent's Child-Support Obligations*, 42 ALR4th 819 (1985).
- Diane C. Sheiring, Annotation, *Removal By Custodial Parents Of Children From Jurisdiction In Violation Of Court Order As Justifying Termination, Suspension, Or Reduction Of Child Support Payments*, 8 ALR4th 1231 (1981).
- Annotation, *Responsibility Of Noncustodial Divorced Parent To Pay For Or Contribute To Costs Of Child's College Education*, 99 ALR3d 322 (1980).
- Joel E. Smith, Annotation, *Parent's Obligation To Support Unmarried Minor Child Who Refuses To Live With Parent*,
98 ALR3d 334 (1980).

**TEXTS &
TREATISES:**

- 8 ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
Chapter 37 Child Support
§ 37.17. Duration of support obligations
§ 37.18. Post majority payments

LAW REVIEWS:

- ERIC PIERSON, ED., 2001 FAMILY LAW UPDATE (2001).
Chapter 4. When will it ever end? The duty to support adult children
§ 4.01. The age of majority as emancipation
§ 4.02. Self-emancipation
§ 4.03. Marriage as emancipation
§ 4.04. Entering the armed forces as emancipation
§ 4.05. Becoming pregnant or having a child as emancipation
§ 4.06. Earning one's own support and abandoning parents' home as emancipation
§ 4.07. The duty to support adult disabled child
§ 4.12. The duty to pay college and post-secondary educational expenses
§ 4.13. Reasonable necessary college costs
§ 4.14. Child's aptitude for college and academic performance
§ 4.15. Parents' ability to pay

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§ 2.9 Child Support and Taxes

2002 Edition

SCOPE:

Bibliographic resources relating to federal tax treatment of child support including:

- dependency exemption
- child care credit
- child tax credit; and,
- Hope and life long learning credit

DEFINITIONS:

- **Tax treatment of child support:** “A payment that is specifically designated as child support or treated as specifically designated as child support is not alimony Child support payments are neither deductible by the payer nor taxable to the payee, INTERNAL REVENUE SERVICE PUBLICATION 504 FOR USE IN PREPARING 2001 RETURN (2002) p. 14. [INTERNAL REVENUE CODE § 71(c)]

STATUTES:

- INTERNAL REVENUE CODE, 26 U.S.C. (2002).
 - § 1. Filing tax status
 - § 21. **Child care credit**
 - § 24. **Child tax credit**
 - § 25A. **Hope and lifelong learning credits**
 - § 71(c). Payments to support children
 - § 151(c)(1). Exemption for dependant
 - § 152. **Dependency exemption**
 - (a) definition of dependent
 - (c) multiple support agreements
 - (e) Support test in case of child of divorced parents, etc.
 - § 213. **Deduction for medical, dental, etc. expenses**
 - (d)(5) Special rule in the case of child of divorced parents, etc.
 - § 2516. Certain property settlements
 - § 6015. Innocent spouse rule

REGULATIONS:

- 26 CFR (rev. April 1, 2002).
 - § 1.152-4. Support test in case of child of divorced or separated parents
 - § 1.152-4T. Dependency exemption in the case of a child of divorced parents, etc. (temporary)

FORMS:

- INTERNAL REVENUE SERVICE FORM 8332
Release of claim to exemption for child of divorced or separated parents

CASES:

- Serrano v. Serrano, 213 Conn. 1, 566 A.2d 413 (1989). *Court ordered allocation of dependency exemption.*

ENCYCLOPEDIAS:

- Jason B. Binimow and G. Knapp, Annotation, *Innocent Spouse Exemption From Liability For Understatement Of Tax*, 154 ALR Federal 233 (1999).

PAMPHLETS:

- *Divorced Or Separated Individuals*, INTERNAL REVENUE SERVICE PUBLICATION 504 FOR USE IN PREPARING 2001 RETURN (2002).

Head of household, p. 5
 Exemptions for dependents, p.6
 Dependency tests, pp. 6-7
 Support test for children of divorced or separated parents, pp. 7-10
 Multiple support agreements, p. 10
 Phaseout of exemptions, p. 10

FLOWCHARTS:

- *Divorced Or Separated Individuals*. INTERNAL REVENUE SERVICE PUBLICATION 504 FOR USE IN PREPARING 2001 RETURN, (2002).
 Figure 1. Support test for child of divorced or separated parents, p. 9
 Figure 2. Can you claim an exemption for a dependent under a multiple support agreement?, p. 11

TEXTS & TREATISES:

- 8A ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000)
 Chapter 56. Federal law affecting Connecticut Domestic Relations Practice.
 § 56.16. The innocent spouse rule
 § 56.17. The dependent child exemption under federal law
 § 56.18. Federal taxes and child support
 § 56.19. Federal tax policy governing medical deductions for children
- BARBARA STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998).
 —Tax filing status, pp.239-241
 —Tax exemptions, pp. 241-242
 —Tax deductions, pp. 243-244
 —Tax credits, pp. 244-245
- LEON GABINET AND HAROLD G. WREN, TAX ASPECTS OF MARITAL DISSOLUTION (2d ed. 1997).
 Chapter 7. Spousal and child support
 § 7:8. Exception of child support
 § 7:9. Child support arrearages; tax consequences to custodial parents
 § 7:23. State-federal issues in alimony and child support
 Chapter 10. Dependency exemptions
 § 10:3. Planning strategies for dependency exemption
 § 10:4. Deduction of child care expenses
 § 10:5. Availability of child care credit
 § 10:6. Earned income tax credit; head-of-household status
- WILLIAM J. BROWN, DIVORCE TAX PLANNING STRATEGIES (1995).
 Chapter 3. Child support payments
 § 3.01. Post 1984 Provisions for child support
 § 3.05. Child-Related contingencies result in payments being treated as child support
 § 3.06. —Alimony “contingency” provisions resulting in child support treatment
 § 3.10. Payment reduction or termination dates “associated with” children and “treated as” child support
 § 3.11. —Avoiding reduction or termination dates which cause payments to be treated as child support
 § 3.12. —Restoring includible and deductible treatment to payments that are presumptively child support

§ 3.15. Circumstances that can fix payments as child support
 § 3.16. —Expressions of a spouse's undertaking to support children
 § 3.17. —Additional alimony payments conditioned on children's activities
 § 3.18. —Post-Remarriage payments
 § 3.20. Providing income for children by alimony trust
 § 3.25. Collecting past-due support from tax refunds
 Chapter 22. Child support payments under Pre-1985 instruments

LAW REVIEWS:

- RON BROWN AND LAURA MORGAN, ED., 2002 FAMILY LAW UPDATE (2002)
 Chapter 8. Current issues in Divorce Taxation
 § 8.05. Noncustodial parent qualifying for the dependency exemption by attaching to that parent's tax return a state court's order granting such exemption
 § 8.07. Unallocated alimony and child support
 § 8.09. Payments fixed as sum payable for support of children, no dollar amount specified
 § 8.10. Unknown tax consequences will not qualify for modification
- Martin J. McMahon, Jr., *Tax Aspects Of Divorce And Separation*, 32 FAMILY LAW QUARTERLY 221 (1998).
 Child support and dependency exemptions, pp. 234-238
 A. Treatment of child support payments
 B. Dependency exemptions for children
- 1998 WILEY FAMILY LAW UPDATE (1998).
 Chapter 9. Federal income tax consequences of the stepparent-stepchild relationship
- 1997 WILEY FAMILY LAW UPDATE (1997).
 Chapter 10. Common divorce tax errors and oversights
 § 10.2. Child support
 § 10.5. Recapture of child support disguised as maintenance
 § 10.10. Transfer of dependency exemption

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Table 22 Questions and Answers on Child Support and Taxes

<p style="text-align: center;">26 CFR § 1.152-4T (rev. 4/1/2002) Dependency exemption in the case of a child of divorced parents, etc. (temporary) (a). In general</p>		
Q-1	Which parent may claim the dependency exemption in the case of a child of a divorced or separated parents?	A-1
Q-2	Are there any exceptions to the general rule in A-1?	A-2
Q-3	How may the exemption for a dependent child be claimed by a non-custodial parent?	A-3
Q-4	For what period may a custodial parent release to the noncustodial parent a claim to the exemption for a dependent child?	A-4
Q-5	May only the custodial parent claim a deduction under section 213(d) for medical expenses paid by the parent or an income exclusion under section 105(b) for medical expenses paid by an employer for a dependent child?	A-5
Q-6	When does section 152(e), as amended by the Tax Reform Act of 1984, become effective?	A-6

Table 23 Child Support Payments

26 CFR § 1.71-1T (rev. April 1, 2002) (c). Child support payments		
Q-15	What are the consequences of a payment which the terms the divorce or separation instrument fix as payable for the support of a child of the payor spouse?	A-15
Q-16	When is a payment fixed (or treated as fixed) as payable for support of a child of the payor spouse?	A-16
Q-17	When does a contingency relate to a child of the payor?	A-17
Q-18	When will a payment be treated as to be reduced at a time which can clearly be associated with the happening of a contingency relating to a child of the payor?	A-18

§ 2.10 Bankruptcy and Child Support

2002 Edition

- SCOPE:** Bibliographic sources relating to the effect of bankruptcy on child support
- STATUTES:**
- 11 U.S.C. (2002).
 - § 362(b)(2). Automatic stay
 - § 522. Exemptions
 - § 523(a)(5). Dischargeability of child support payments
 - § 541. Property of the estate
- COURT RULES:**
- FEDERAL RULES OF BANKRUPTCY PROCEDURE
 - Rule 4007 Determination of dischargeability of a debt
- FORMS:**
- *Complaint to determine dischargeability of debt*, 5 FEDERAL PROCEDURE FORMS, L.ED, *Bankruptcy* §1423
 - RONALD L. BROWN, ED., *BANKRUPTCY ISSUES IN MATRIMONIAL CASES: A PRACTICAL GUIDE* (1992).
 - Form 1 Suggestion and notice of filing of bankruptcy (in state court), p. F-6
 - Form 4 Notice of removal—filed in state court, p. F-10
 - Form 6 Motion for relief from automatic stay—to pursue divorce proceeding , p. F-12
 - Form 8 Motion for relief from automatic stay—to pursue state court remedies to enforce support and collect arrears, p. F-18
 - Form 13 Motion to determine dischargeability—by divorce obligee/creditor—seeking nondischarge of divorce obligations, F-35
- CASES:**
- *Bettini v. Bettini*, 19 Conn. L. Rptr. No. 1, p. 7 (May 15, 1997). *Dischargeability of obligations to assign a portion of pension plan benefits.*
 - *In Re Sailsbury*, 779 P2d 878 (Kan. Ct. App. 1989). *Concurrent jurisdiction of state and federal court in determining whether or not an obligation is dischargeable.*
 - *Taylor v. Freeland & Kronz*, 503 U.S. 638(1992). *Failure to object to debtor's claimed exemption within 30 days.*
 - *Lesser v. Lesser*, 16 Conn. App. 513, 516, 548 A.2d 6 (1988). *Factors to determine nondischargeable duty.*
 - *Matthews v. Matthews*, 9 FSMD 33 (1995). *Dischargeability of medical and dental payments.*
- ENCYCLOPEDIAS:**
- 9E AM JUR 2D *Bankruptcy* (2000).
 - §§ 3376-3380. Family situations
 - 5 FEDERAL PROCEDURE, L ED, *Bankruptcy* § 9:1092 (1991).
 - Joseph E. Edwards, Annotation, *Wife's Claim To Alimony Or Other Allowances In Divorce Or Separation Suit As Passing, To Trustee In Wife's Bankruptcy, Under §70(A) Of Bankruptcy Act*, 10 ALR FEDERAL 881(1972).
- TEXTS & TREATISES:**
- 8A ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000).
 - Chapter 56. Federal law affecting Connecticut Domestic Relations Practice

- § 56.4. The impact of federal bankruptcy policy on state divorce practice
- § 56.5. _____ Effects of bankruptcy —Generally
- § 56.6. _____ Effect of bankruptcy on obligations for child support or alimony
- § 56.12. _____ State court measures to remedy the effect of bankruptcy
- 4 ARNOLD H. RUTKIN, GEN. ED., FAMILY LAW AND PRACTICE (2002).
 - Chapter 44. The effect of bankruptcy laws on marital dissolutions, agreements and property
 - § 44.03. The automatic stay
 - § 44.06. Determining the dischargeability of obligations for alimony, support and maintenance
- RONALD L. BROWN, ED, BANKRUPTCY ISSUES IN MATRIMONIAL CASES: A PRACTICAL GUIDE (1992).
 - Chapter 5 Pre-divorce bankruptcy planning: the pros and cons
 - Chapter 6 Pre-bankruptcy planning: insulating assets from creditor's claims
 - Chapter 7 Protecting marital rights in contemplation of bankruptcy
 - Chapter 8 Should divorcing spouses seek bankruptcy relief during their dissolution proceeding?
 - Chapter 9 Planning and strategy in responding to a bankruptcy filing mid-divorce
 - Chapter 10 A guide to the post-divorce discharge of marital obligations
 - Chapter 11 Five faulty premises in the application of bankruptcy code section 523(a)(5)
 - Chapter 12 Avoidance of marital liens
- JUDITH K. FITZGERALD AND RAMONA M. ARENA, BANKRUPTCY AND DIVORCE SUPPORT AND PROPERTY DIVISION (2d ed.1994).
 - Chapter 1. Overview
 - § 1.8. Child support
 - Chapter 2. What is support?
 - § 2.4. Child support
 - § 2.6. Modification of alimony or support awards in state court after discharge in bankruptcy [2002 supp.]
 - Chapter 5. Dischargeability of assigned support
 - Chapter 6. Chapter 13 bankruptcy and support
 - § 6.3. Are arrearages support?
 - § 6.9. Issues concerning the automatic stay
- COLLIER ON BANKRUPTCY (15th ed. revised 2002)
 - Chapter 362. Automatic stay
 - § 362.05[2]. Exceptions to the stay; § 362(b)—Alimony, maintenance or support § 362(b)(2)
 - Chapter 522. Exemptions
 - § 522.09[10][a]. Categories of exempt property—Federal exemptions; § 522(d)—Benefits akin to future earnings—The scope of the Section 522(d)(10) exemption
 - § 522.11[5]. Avoidance of judicial liens on exempt property and nonpossessory nonpurchase-money security interests in certain categories of exempt property; § 522(f)—Special rule for alimony, maintenance and support liens
 - Chapter 1328. Discharge
 - § 1328.02[3][c]. Chapter 13's full-compliance discharge; §

1328(a)—Effect of a full-compliance Chapter 13 discharge—
Discharge exemption for debts for alimony, maintenance or
support; §§ 523(a)(5) and 1328(a)(2)

- HENRY J. SOMMER AND MARGARET DEE MCGARITY, *COLLIER FAMILY LAW AND THE BANKRUPTCY CODE* (1999).

Chapter 5. Jurisdiction of the bankruptcy court in domestic relations
matters and the applicability of the automatic stay

Chapter 6. The dischargeability of marital obligations in bankruptcy

Chapter 7. Lien and transfer avoidance in connection with marital or
family obligations

Chapter 8. Chapter 13 and the divorced or separated debtor

- BARBARA STARK, *FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE* (1998).

Bankruptcy at the time of your divorce, pp. 213-215

LAW REVIEWS:

- *Special Issue on Family Law and Bankruptcy*, 31 FAMILY LAW QUARTERLY no. 3 (Fall 1997).
- 1995 WILEY FAMILY LAW UPDATE (1995).
Chapter 3. 1994 Bankruptcy Act amendments and the family law practitioner
- *Special Issue: The Impact of Bankruptcy on Divorce*, 14 FAMILY ADVOCATE no. 3 (Winter 1992). Includes:
 - ❑ Janet L. Chubb and Robert F. Holley, *Decoding The Code; A Guide To The Rules And Statutes Governing Bankruptcy*, p. 29.
 - ❑ Robert M. Welch, Jr., *Protecting The Rights Of The Creditor Spouse; Whether It Is Called Alimony, Maintenance, Or Support, You Must Master The Federal Criteria Used To Determine If Payments Are Dischargeable*, p. 36

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Glossary

A

ABANDONED SPOUSE: “Notwithstanding the provisions of subsection (a) of this section, a spouse who abandons his or her spouse without cause shall be liable for the reasonable support of such other spouse while abandoned.” Conn. Gen. Stats. §46b-37(c) Alimony §1

ABANDONMENT DEFENSE: “Abandonment without cause by a spouse shall be a defense to any liability . . . for expenses incurred by and for the benefit of such spouse.” Conn. Gen. Stats. §46b-37(e) Alimony §1

ADULTERY and alimony: “Adultery is not listed as a factor to be considered unless it is one of the causes for the dissolution of marriage.” Venuti v. Venuti, 185 Conn. 156, 158 (1981) Alimony §1

ALIMONY

- “The term alimony usually and technically means an allowance for spousal support and is distinguishable from property division and child support.”
In Re Marriage of Sjulín, 431 NW2d 773 (Iowa 1988)
- “The difference between the assignment of property under §46b-81 and alimony under §46b-82 The purpose of property assignment is equitably to divide the ownership of the parties’ property On the other hand, periodic and lump sum alimony is based primarily upon a continuing duty to support”
Dubicki v. Dubicki, 186 Conn. 709, 714, footnote 2
- “An award of alimony is based primarily on a spouse’s continuing duty to support General Statutes §46b-82 governs the award of alimony and specifically states it may be in addition to a property distribution award” Martone v. Martone, 28 Conn. App. 208 at 217 (1992).

ALIMONY ORDER: “At the time of entering the decree, the Superior Court may order either of the parties to pay alimony to the other, in addition to or in lieu of an award pursuant to section 46b-81[assignment of property and transfer of title]. The order may direct that security be given therefor on such terms as the court may deem desirable, including an order to either party to contract with a third party for periodic payments or payments contingent on a life to the other party.” Conn. Gen. Stats. §46b-82..... Alimony §6

ALIMONY PENDENTE LITE “ means alimony or maintenance ‘pending litigation’ and is payable during the pendency of a divorce proceeding so as to enable a dependent spouse to proceed with or defend against the action.” Jayne v. Jayne, 663 A.2d 169, 176 (Pa. Super. 1995) Alimony §2

ANTENUPTIAL AGREEMENT or prenuptial agreement “means an agreement between prospective spouses made in contemplation of marriage.” Conn. Gen. Stats. §46b-36b..... Alimony §2

ARREARAGE: overdue alimony or child support payments. Alimony §3

B

BCSE: “the Bureau of Child Support Enforcement established within the department [of Social Services] by section 17b-179 of the Connecticut General Statutes as the IV-D agency for the State of Connecticut.”
Regulations of Connecticut State Agencies §17b-179(a)-1(1)

C

CHILD SUPPORT GUIDELINES: “the rules, principles, schedule, and worksheets established under these regulations for the determination of the appropriate level of current support for a child, to be used when establishing both temporary and permanent orders, whether in the initial determination of a child support order or a modification of an existing order.”

Regulations of Connecticut State Agencies §46b-215a-1(5).

CHILD SUPPORT ORDER: “means an order for support of a child or a child and the parent with whom the child is living issued by the superior court, a family support magistrate, or any court of competent jurisdiction, and includes an agreement to support approved by a family support magistrate pursuant to section 46b-231 of the Connecticut General Statutes.”

Regulations of Connecticut State Agencies §17b-179(a)-1(6)

COHABITATION: “Section 46b-86 (b), known as the ‘cohabitation statute,’ provides in pertinent part that a court may ‘modify such judgment and suspend, reduce or terminate the payment of periodic alimony upon a showing that the party receiving the periodic alimony is living with another person under circumstances which the court finds should result in the modification . . . of alimony because the living arrangements cause such a change of circumstances as to alter the financial needs of that party.’” D’Ascanio v. D’Ascanio, 237 Conn. 481, 485-486(1996).....

Alimony §§3,7

CONTEMPT: “Contempt is a disobedience to the rules and orders of a court which has power to punish for such an offense A **civil contempt** is one in which the conduct constituting the contempt is directed against some civil right of an opposing party and the proceeding is initiated by him.” (emphasis added) Stoner v. Stoner, 163 Conn. 345, 359 (1972) Alimony §5

D

DEVIATION CRITERIA: “those facts or circumstances described in sections 46b-215a-3 and 46b-215a-5 of these regulations which, if specifically found on the record of the trier of fact, may be sufficient to rebut the presumption created by the child support and/or arrearage guidelines.” Regulations of Connecticut State Agencies §46b-215a-1(9).

DISCRETION EXERCISED BY THE TRIAL COURT: “While a trial court must consider a number of factors in awarding alimony and distributing the assets of the parties, and my exercise broad discretion in that consideration . . . it need not recite each factor in its decision, it is sufficient that the memorandum of decision ‘at least reflect a proper consideration and weighing of the factors set forth in the statute.’” Siracusa v. Siracusa, 30 Conn. App. 560, 564(1993) Table 2

DUTY TO SUPPORT SPOUSE: “An award of alimony is based primarily on a spouse’s continuing duty to support General Statutes §46b-82 governs the award of alimony and specifically states it may be in addition to a property distribution award” Martone v. Martone, 28 Conn. App. 208 at 217 (1992) Alimony §1

F

FACTORS USED IN DETERMINING ALIMONY: “In determining whether alimony shall be awarded, and the duration and amount of the award, the court . . . shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate and needs of each of the parties and the award, if any, which the court may make pursuant to section 46b-81, and, in the case of a parent to whom the custody of minor children has been awarded, the desirability of such parent’s securing employment.” Conn. Gen. Stats. §46b-82Alimony §4

FAULT IN MARITAL BREAKUP: “In determining whether alimony shall be awarded, and the duration and amount of the award, the court . . . shall consider the causes for the annulment, dissolution of the marriage or legal separation” Conn. Gen. Stats. §46b-82 Alimony §4

FRAUDULENT CONVEYANCES: A transfer of properties intended to defraud. See Farrell v. Farrell, 36 Conn. App. 305 (1994) Alimony §5

I

INABILITY TO PAY: “In the contempt proceedings before the family support magistrate, the magistrate acknowledged that inability to pay an order is a defense to a charge of contempt. See Mallory v. Mallory, 207 Conn. 48, 57, 539 A.2d 995 (1988); Mays v. Mays, 193 Conn. 261, 264, 476 A.2d 1562 (1984); Tobey v. Tobey, 165 Conn. 742, 746, 345 A.2d 21 (1974). These cases also hold, however, that the defendant has the burden of proof on this issue” Perry v. Perry, 222 Conn. 799, 805 (1992) Alimony §5

IN PERSONAM JURISDICTION: “the court acquired no jurisdiction to render a judgment . . . binding the defendant personally, since he was a nonresident on whom personal service had not been made, although it did have jurisdiction in rem over the attached realty. An order directing the payment of alimony or support is a judgment in personam.” Robertson v. Robertson, 164 Conn. 140, 143-144 (1972) Alimony §6

J

JOINT DUTY OF SUPPORT: “ . . . it shall be the joint duty of each spouse to support his or her family, and both shall be liable for: (1) The reasonable and necessary services of a physician or dentist; (2) hospital expenses rendered the husband or wife or minor child while residing in the family of its parents; (3) the rental of any dwelling unit actually occupied by the husband and wife as a residence and reasonably necessary to them for that purpose; and (4) any article purchased by either which has in fact gone to the support of the family, or for the joint benefit of both. Conn. Gen. Stats. §46b-37(b) Alimony §1

L

LACHES: Bar to collecting support arrearage. Papcun v. Papcun, 181 Conn. 618, 620 (1980). “Laches consists of two elements. First, there must have been a delay that was inexcusable, and, second, that delay must have prejudiced the defendant.” Kurzatkowski v. Kurzatkowski, 142 Conn. 680, 684-685 (1955) Alimony §5

LONG ARM STATUTE: Statute (Conn. Gen. Stats. §46b-46) giving Connecticut courts jurisdiction over nonresident for alimony and support. Alimony §6

M

MODIFICATION OF SUPPORT ORDER: “ . . . any final order for the periodic payment of permanent alimony or support or an order for alimony or support pendente lite may at any time thereafter be continued, set aside, altered or modified by said court upon a showing of a substantial change in the circumstances of either party or upon a showing that the final order for child support” Conn. Gen. Stats. §46b-86 Alimony §3

MOTION FOR CONTEMPT: “Whenever a motion for modification of an order for support and alimony is made to the superior court by a moving party against whom a motion for contempt for noncompliance with such order is pending, the court shall accept such motion and hear both motions concurrently.” Conn. Gen. Stats. §46b-8 Alimony §5

N

NECESSITIES: Goods or services purchased by spouse for the support of the family that are necessary or reasonable Alimony §1

NOTICE OF ORDERS: “In all dissolution of marriage, legal separation, annulment, custody or visitation actions, such notice as the court shall direct shall be given to nonappearing parties of any orders for support or alimony. No such order shall be effective until the order of notice shall have been complied with or the nonappearing party has actually received notice of such orders.” P.B. §1230..... Alimony §6

P

PRENUPTIAL AGREEMENT or Antenuptial Agreement or “means an agreement between prospective spouses made in contemplation of marriage.” Conn. Gen. Stats. §46b-36b..... Alimony §2

PERSONAL JURISDICTION: “sufficient contacts with the state of Connecticut to justify the court's assertion of personal jurisdiction over him.” Gaudio v. Gaudio, 23 Conn. App. 287, 297 (1990). “The analysis of the defendants' challenge to personal jurisdiction involves a two-part inquiry. The first inquiry is whether the applicable state long arm statute authorizes the assertion of jurisdiction over the defendants; and, if the statutory requirements are met, whether the exercise of in personam jurisdiction would violate constitutional principles of due process.” Hart, Nininger & Campbell Assoc. v. Rogers, 16 Conn. App. 619, 624 (1988)..... Alimony §6

R

REHABILITATIVE ALIMONY: “alimony payable for a short, but specific and terminable period of time, which will cease when recipient is, in the exercise of reasonable efforts, in a position of self-support.” (emphasis added). Turner v. Turner, 97 ALR3d 730, 731 (1978) Alimony §7

REGISTRY OF SUPPORT ORDERS: “The Support Enforcement Division shall maintain a registry of support orders from other states. The obligee may register a support order from another state in a court of this state and the Attorney General, unless the obligee is represented by an attorney retained by the obligee, shall represent such obligee in accordance with the provisions of section 46b-186.” Conn. Gen. Stats. §46b-198b(a)

RESIDENCY REQUIREMENT: Complaint for dissolution of a marriage or for legal separation may be filed at any time after either party has established residence in this state. See Conn. Gen. Stats. §46b-44..... Alimony §6

RIGHT TO ALIMONY: “Our alimony statutes does not recognize any absolute right to alimony.” Thomas v. Thomas, 159 Conn. 477, 486 (1970) Alimony §4

S

SEPARATION DEFENSE: “No action may be maintained against either spouse under the provisions of this section, either during or after any period of separation from the other spouse, for any liability incurred by the other spouse during the separation, if, during the separation the spouse who is liable for support of the other spouse has provided the other spouse with reasonable support.” Conn. Gen. Stats. §46b-37(d)..... Alimony §1

SHARED CUSTODY: “a situation in which the parents share the physical care and custody of the child.” Regulations of Connecticut State Agencies §46b-215a-1(19)

STATUTORY FACTORS: “In determining whether alimony shall be awarded, and the duration and amount of the award, the court . . . shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate and needs of each of the parties and the award, if any, which the court may make pursuant to section 46b-81, and, in the case of a parent to whom the custody of minor children has been awarded, the desirability of such parent's securing employment.” Conn. Gen. Stats. §46b-82 Alimony §4

SUBSTANTIAL CHANGE IN CIRCUMSTANCES: “When presented with a motion for modification, a court must first determine whether there has been a substantial change in the financial circumstances of one or both of the parties Second, if the court finds a substantial change in circumstances, it may properly consider the motion and, on the basis of the § 46b-82 criteria, make an order for modification The court has the authority to issue a modification only if it conforms the order to the distinct and definite changes in the circumstances of the parties.” Crowley v. Crowley, 46 Conn. App. 87, 92 (1997)..... Alimony §3

SUPPORT ORDER: “a judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or a former spouse, which provides for monetary support, health care, arrearages or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees and other relief.” June 18 Special Session P.A. 97-1 §2(22)

T

TEMPORARY ALIMONY *see* ALIMONY PENDENTE LITE Alimony §2

Table Of Cases

Anderson v. Clinton, 4 CSCR 275 (New Haven, 1989), § 1.8
Baker v. Baker, 166 Conn. 476, 488, 352 A.2d 217(1974), § 1.1
Battersby v. Battersby, 218 Conn. 467, 590 A.2d 427 (1991), Title page and §§ 2.2a, 2.5
Beaulieu v. Beaulieu, 18 Conn. Sup. 497, 498 (1954), § 2.3
Benedetto v. Benedetto, 55 Conn. App. 350, 355, 738 A.2d 745 (1999), § 2.2c
Bettini v. Bettini, No. FA 94 119494, 19 Conn. L. Rptr. 7, 1997 Ct. Sup. 1814, 1997 WL 112803 (Feb. 25, 1997), §§ 1.10, 2.10
Borkowski v. Borkowski, 228 Conn. 729, 736, 638 A.2d 1060 (1994), § 1.3
Brent v. Lebowitz, 67 Conn. App. 527, 532, 787 A.2d 621 (2002), § 2.2b
Brock v. Cavanaugh, 1 Conn. App. 138, 141, 468 A.2d 8 (1984), § 2.4
Caffee v. Caffee, 240 Conn. 79, 82, 689 A.2d 468 (1997), § 1.5
Carey v. Carey, 29 Conn. App. 436, 440, 615 A.2d 516 (1992), § 2.2c
Clark v. Clark, 66 Conn. App. 657, 665, 785 A.2d 1162 (2001), § 1.3
Cohn v. Snyder, 102 Conn. 703, 130 A. 631 (1925), § 1.1
Colby v. Colby, 33 Conn. App. 417, 421, 635 A.2d 1241 (1994), § 2.7
Connolly v. Connolly, 191 Conn. 468, 480, 464 A.2d 837 (1983), § 2.3
Crowley v. Crowley, 46 Conn. App. 87, 699 A.2d 1029 (1997), § 1.3
Cummock v. Cummock, 188 Conn. 30, 448 A.2d 204 (1982), § 1.3
D'Ascanio v. D'Ascanio, 237 Conn. 481, 485-486, 678 A.2d 469 (1996), § 1.3
Davies v. Davies, 5 CONN. LAW REPORTER 536 (Bridgeport 1992), § 1.8
Decamillis v. Hasiotis, No. FA00-0630369, 2001 Ct. Sup. 12890, 2001 WL 11924 (Sep. 5, 2001), § 2.1
DeMaria v. DeMaria, 247 Conn. 715, 720, 724 A.2d 1088 (1999), § 1.3
Distefano v. Distefano, 67 Conn. App. 628, 633, 787 A.2d 675 (2002), §§ 1.3, 1.8
Dooley v. Dooley, 32 Conn. App. 863, 632 A.2d 712 (1993), § 1.3
Dubicki v. Dubicki, 186 Conn. 709, 714, 443 A.2d 1268 (1982), title page (Chapter 1)
Durkin v. Durkin, 43 Conn. App. 659, 661, 685 A.2d 344 (1996), § 1.5
Eidson v. Eidson, No. 646-98-0060, 2002 Ct. Sup. 3503, 3508, 2002 WL 532401 (Mar. 13, 2002), § 2.8
Eldridge v. Eldridge, 244 Conn. 523, 529, 710 A.2d 757 (1998), § 2.6
Ematrudo v. Gordon, 100 Conn. 163, 123 A. 14 (1923), § 1.1
Emmons v. Commissioner, 36 TC 728, 738 (1961), § 1.9
England v. England, 138 Conn. 410, 414, 85 A.2d 483 (1951), § 2.3
Evans v. Taylor, 67 Conn. App. 108, 786 A.2d 525 (2001), §§ 2.2a and 2.3
Fattibene v. Fattibene, 183 Conn. 433, 441, 441 A.2d 3 (1981), § 1.1
Favrow v. Vargas, 222 Conn. 699, 707-714, 610 A.2d 1267 (1992), § 2.2a
Feldman v. Allegheny Airlines, Inc., 524 F.2d 384, remand 452 F.2d 151 (1975), § 1.1
Fitzgerald v. Fitzgerald, 169 Conn. 147, 151, 362 A.2d 889 (1975), § 1.2
Fitzgerald v. Fitzgerald, 169 Conn. 147, 151, 362 A.2d 889 (1975), § 2.3
Foran v. Carangelo, 153 Conn. 356, 216 A.2d 638 (1966), § 1.1
Fox v. Fox, No. FA90-0098219, 2002 Ct. Sup. 6090, 6092 (May 3, 2002), § 2.1
Gallo v. Gallo, 184 Conn. 36, 50, 440 A.2d 782 (1981), § 1.5
Gaudio v. Gaudio, 23 Conn. App. 287, 298, 580 A.2d 1212 (1990), § 1.6
Gray v. Gray, 12 Conn. Law Tribune, no. 3, p. 25 (1/20/86, Superior Court, Hartford), § 1.3
Guille v. Guille, 196 Conn. 260, 263, 492 A.2d 175 (1985), § 2.1
Guss v. Guss, 1 Conn. App. 356, 472 A.2d 790 (1984), § 1.8
Guzman v. Guzman, 19 Conn. L. Repr. 1 (May 5, 1997), § 1.8
Hanf v. Hanf, 23 Conn. Supp. 306 at 307, 182 A.2d 631(1962), § 1.1
Hardisty v. Hardisty, 183 Conn. 253, 258-259, 439 A.2d 307 (1981), § 2.4
Hirtle v. Hirtle, 217 Conn. 394, 400-401, 586 A.2d 578 (1991), § 2.8
In Re Bruce R., 234 Conn. 194, 209, 662 A.2d 107 (1995), § 2.1
In Re Marriage of Sjulín, 431 NW2d 773 (Iowa 1988), title page (Chapter 1)
In Re Sailsbury, 779 P2d 878 (Kan. Ct. App. 1989), § 2.10
In Re Sailsbury, 779 P2d 878, 880 (Kan.App. 1989), § 1.10

Jayne v. Jayne, 663 A.2d 169, 176 (Pa. Super. 1995), § 1.2
Jenkins v. Jenkins, 243 Conn. 584, 704 A.2d 231 (1998), § 2.4
Kane v. Parry, 24 Conn. App. 307, 313, 588 A.2d 227 (1991), § 1.4
Keeyes v. Keeyes, 43 Conn. App. 575, 577, 684 A.2d 1214 (1996), § 2.8
Kelepecz v. Kelepecz, 187 Conn. 537, 538, 447 A.2d 8 (1982), § 2.4.
Krueger v. Krueger, 179 Conn. 488, 427 A.2d 400 (1980), § 1.6
Lesser v. Lesser, 16 Conn. App. 513, 516, 548 A.2d 6 (1988), § 2.10
Leveston v. Leveston, 182 Conn. 19, 22, 437 A.2d 819 (1980), § 1.5
Lewis v. Lewis, 35 Conn. App. 622, 627, 646 A.2d 273 (1994), § 1.10
Lowe v. Lowe, 58 Conn. App. 805, 814, 755 A.2d 338 (2000), § 1.5
Marcil v. Marcil, 4 Conn. App. 403, 405, 494 A.2d 620 (1985), § 2.6
Martone v. Martone, 28 Conn. App. 208, 611 A.2d 896, cert. granted in part 224 Conn. 909 (1992), §§ 1.1, 1.2
Matthews v. Matthews, 9 FSMD 33 (1995), § 2.10
McDonnell v. McDonnell, 166 Conn. 146, 348 A.2d 575(1974), § 1.1
Miklos v. Millos, 4 Conn. L. Rptr. 185, 186 (Litchfield, 1991), § 2.2a
Miller v. Miller, 181 Conn. 610, 613-614, 436 A.2d 279 (1980), § 2.8
Mills v. Theriault, 40 Conn. Supp. 349499 A.2d 89 (1985), § 2.8
Mongillo v. Mongillo, 69 Conn. App. 472, 479, 794 A.2d 1054 (2002), § 1.8
Paddock v. Paddock, 22 Conn. App. 367, 577 A.2d 1087 (1990), § 1.2
Page v. Welfare Commissioner, 170 Conn. 258, 365 A.2d 1118 (1976), § 1.1
Prial v. Prial, 67 Conn. App. 7, 12, 787 A.2d 50 (2001), § 2.4
Rose v. Rose, 34 Conn. Supp. 221, 385 A.2d 1(1977), § 1.6
Rosher v. Superior Court, 71 P.2d 918, § 2.1
Rubin v. Rubin, 204 Conn. 224, 234, 527 A.2d 1184 (1987), § 1.1
Rule v. Rule, 6 Conn. App. 541, 544, 506 A.2d 1061 (1986), § 2.7
Sablosky v. Sablosky, 258 Conn. 713, 720, 784 A.2d 890 (2001), § 2.6
Sanchione v. Sanchione, 173 Conn. 397, 404, 378 A.2d 522 (1977), § 1.3
Santoro v. Santoro, 70 Conn. App. 212, 218, 796 A.2d 567 (2002), § 2.4
Scoville v. Scoville, 179 Conn. 277, 279, 426 A.2d 271 (1979), § 1.3
Secada v. Secada, No. FA99-0174204S, 2002 Ct. Sup. 5057, 5079, 2002 WL 1041726 (Apr. 30, 2002), § 1.10
Serrano v. Serrano, 213 Conn. 1, 566 A.2d 413 (1989), § 2.9
Shearn v. Shearn, 50 Conn. App. 225, 717 A.2d 793 (1998), § 2.4
Sheehan v. Balasic, 46 Conn. App. 327, 331, 699 A.2d 1036 (1997), § 1.3
Sillman v. Sillman, 168 Conn. 144, 358 A.2d 150 (1975), § 2.1
Simmons v. Simmons, 244 Conn. 158, 179, 708 A.2d 949 (1998), §§ 1.3, 1.5
Simms v. Simms, 25 Conn. App. 231, 234, 593 A.2d 161 (1991), § 1.3
Siracusa v. Siracusa, 30 Conn. App. 560, 566, 621 A.2d 309 (1993), § 1.2
Sklar v. Sklar's Estate, 168 Conn. 101, 357 A.2d 900 (1975), § 1.1
State v. Gorman, No. FA 98-0331769 S, 2000 Ct. Sup. 2938-af, 2001 WL 359720 (Feb. 2, 2000), § 2.1
State v. Miranda, 245 Conn. 209, 715 A.2d 680 (1998), § 2.1
State v. Turello, 183 Conn. 330, 439 A.2d 364 (1981), § 1.1
Stoner v. Stoner, 163 Conn. 345, 307 A.2d 146 (1972), § 2.6
Taylor v. Freeland & Kronz, 503 U.S. 638 (1992), § 2.10
Taylor v. Freeland & Kronz, 503 U.S. 638, 643, 112 S. Ct. 1644, 118 L.Ed. 2d 280 (1992), § 1.10
Thomas v. Thomas, 159 Conn. 477, 486, 271 A.2d 62 (1970), § 1.5
Timm v. Timm, 195 Conn. 202, 207, 487 A.2d 191 (1985), § 2.1
Town v. Anonymous (1983-6), 39 Conn. Sup. 35, 38, 467 A.2d 687 (1983), § 2.8
Turner v. Turner, 219 Conn. 703, 720, 595 A.2d 297 (1991), § 2.4
Turner v. Turner, 97 ALR3d 730, 731 (1978), § 1.7
U.S. v. Edwards, 572 F. Supp. 1527 (1983), § 1.1
Unkelbach v. McNary, 244 Conn. 350, 710 A.2d 717 (1998), §§ 2.1, 2.4, 2.5
Valante v. Valante, 180 Conn. 528, 531, 429 A.2d 964 (1980), §§ 1.5, 2.1

Van Wagner v. Van Wagner, 1 Conn. App. 578, 583-584, 474 A.2d 110 (1984), § 2.8
Venuti v. Venuti, 185 Conn. 156, 158, 440 A.2d 878 (1981), § 1.1
Vickery v. Vickery, 25 Conn. App. 555, 562, 595 A.2d 905 (1991), § 2.5
W. v. W., 248 Conn. 487, 728 A.2d 1076 (1999), §§ 2.1, 2.4
Way v. Way, 60 Conn. App. 189, 199, 758 A.2d 884 (2000), § 1.8
Weinstein v. Weinstein, 18 Conn. App. 622, 637, 561 A.2d 443 (1989), § 1.2
Windgerd v. Windgerd, 3 Conn. App. 261, 487 A.2d 212 (1985), § 1.8
Wolf v. Wolf, 39 Conn. App. 162, 164-165, 664 A.2d 315 (1995), § 1.2
Wolk v. Wolk, 191 Conn. 328, 331, 464 A.2d 780 (1983), § 2.3
Wright v. Wright, 284 NW2d 894, 903 (1979), § 1.9
Yale University School of Medicine v. Collier, 206 Conn. 31 at 37, 536 A.2d 588 (1988), § 1.1
Yale University School of Medicine v. Scianna, 45 Conn. Supp. 84, 701 A.2d 65 (1977), § 1.1
Zahringer v. Zahringer, 69 Conn. App. 251, 263, 793 A.2d 1214 (2002), § 2.2a

Texts and Treatises

ARNOLD H. RUTKIN ET AL., FAMILY LAW AND PRACTICE (1991), §§ 2.4, 2.6, 2.10

ARNOLD H. RUTKIN ET AL. CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS (2d ed. 2000), §§ 2.1, 2.2a, 2.2c, 2.3-2.10

Barbara Kahn Stark, *Dissolution of Marriage*, CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL, XVI-13 to XVI-14 (Peter L. Costas, managing ed., 1998).

BARBARA KAHN STARK, FRIENDLY DIVORCE GUIDEBOOK FOR CONNECTICUT: PLANNING, NEGOTIATING AND FILING YOUR DIVORCE (1998), §§ 2.2a, 2.2c, 2.3, 2.5, 2.9, 2.10

COLLIER ON BANKRUPTCY (15th ed. revised 2002), §§ 1.10, 2.10

FAMILY LAW PRACTICE IN CONNECTICUT (1996), §§ 2.1, 2.3

HENRY J. SOMMER AND MARGARET DEE MCGARITY, COLLIER FAMILY LAW AND THE BANKRUPTCY CODE (1999), § 2.10

JOEL M. KAYE ET AL., CONNECTICUT PRACTICE SERIES, PRACTICE BOOK ANNOTATED (1996), § 2.6

JUDITH K. FITZGERALD AND RAMONA M. ARENA, BANKRUPTCY AND DIVORCE SUPPORT AND PROPERTY DIVISION (2d ed. 1994), § 2.10

LEON GABINET AND HAROLD G. WREN, TAX ASPECTS OF MARITAL DISSOLUTION (2d ed. 1997), § 2.9

LYNN D. WARDLE, CONTEMPORARY FAMILY LAW: PRINCIPLES, POLICY AND PRACTICE (1998), § 2.4

MARION F. DOBBS, DETERMINING CHILD AND SPOUSAL SUPPORT (1995), § 2.4, 2.6

RALPH DUPONT, DUPONT ON CONNECTICUT CIVIL PRACTICE (2000).

RONALD L. BROWN, ED, BANKRUPTCY ISSUES IN MATRIMONIAL CASES: A PRACTICAL GUIDE (1992), §§ 1.10, 2.10

WILLIAM J. BROWN, DIVORCE TAX PLANNING STRATEGIES (1995), § 2.9

WYNN AND LUBELL, HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER.

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Index

- Abandoning parents' home and support, § 2.8
- Abandonment of spouse, proof of, Table 1
- Absolute right to alimony, § 1.4
- Acquiescence as defense to arrearage, § 1.5
- Administrative agencies involved in Child Support, Table 17
- Adult children, support of, § 2.8
- Age of majority, §§ 2.1, 2.8
- Age of parent or child (factor), § 2.5
- Ages of parties, factor in awarding alimony, § 1.4
- Agreements to support beyond 18-years, § 2.8
- Alimony, definition, title page (Chapter 1)
- Amount and sources of income (factor), § 2.5
- Appeals, statutory factors, Table 6
- Appearance requirement, foreign matrimonial judgment, § 2.7
- Application for contempt citation and order to show cause (form), § 2.6
- Armed forces, entering by child, § 2.8
- Arrearage, defenses to, § 1.5
- Assignment of property, title page (Chapter 1)
- Attorney fees and expenses**, § 1.8
- Attorney General, Table 7
- Automatic stay (bankruptcy), § 2.10
- Bankruptcy**
 - Alimony, § 1.10
 - Child support, § 2.10
- Basis for alimony, § 1.1
- Burial, § 1.1
- Causes of dissolution of marriage (factor), § 1.4
- Child care credits, § 2.9
- Child Support Guidelines**, § 2.2
 - applicability, § 2.2a
 - deviation from, § 2.2b
 - use of, § 2.2a
 - when not applicable, § 2.2c
- Child support and alimony, § 1.8
- Child tax credits, § 2.9
- Claimed exemption (bankruptcy), § 2.10
- Cohabitation**
 - Definition, § 1.3
 - Modification because of, §§ 1.3, 1.7
 - Statute (Connecticut), § 1.7
 - Termination of alimony because of, § 1.3
- College costs, reasonable, § 2.8
- Contempt, definition, § 1.5
- Contempt, definition, § 2.6
- Continuing duty to support spouse, § 1.1
- Death of obligor (alimony), §§ 1.5, 1.7
- Deduction for medical/dental expenses, § 2.9
- Defenses (alimony), § 1.1
- Department of Social Services, Table 7
- Dependency exemption, § 2.9 and Table 22
- Deviation criteria, definition, § 2.2.2
- Dischargeability of support payments, § 2.10
- Divorce decree, incorporation of support agreements in, § 2.8
- Duration of alimony**, § 1.7
- Duration of child support**, § 2.8
- Duty to support child**, § 2.1 and Table 9
 - Incarcerated minor, § 2.1
 - Unmarried minor who refuses to live with parent, § 2.1
- Duty to support spouse, § 1.1
- Educational status (factor), § 2.5
- Educational Support Order, § 2.8
- Emancipation of child, § 2.8
- Employability (factor), § 2.5
- Enforcement of child support**, § 2.6
 - Connecticut statutes, Table 14
 - Federal statutes, Table 15
 - Out of state judgment, § 2.7
- Enforcing alimony, § 1.5
- Equitable estoppel, § 1.5
- Escalation clause, § 1.5
- Estates of parties (factor), §§ 1.4, 2.5
- Exemptions (Bankruptcy), § 2.10
- Expenses, attorney, § 1.8
- Factors considered in awarding alimony**, §§ 1.3, 1.4, Statutory, Table 2
- Factors Used in determining child support**, § 2.5 and Table 13
- Family Support Magistrate Division, Table 7
- Filing tax status, § 2.9
- Foreign divorces, § 2.7
- Foreign matrimonial judgments, § 2.7 and Table 20
- Fraudulent conveyance, § 1.5
- Health of parent or child (factor), § 2.5
- Health of parties (factor), § 1.4
- High school student over 18, § 2.8
- History of federal legislation, Table 16
- Hope and lifelong learning credits, § 2.9
- Inability to pay, § 1.5
- Income (factor), § 1.4
- Innocent Spouse Rule, § 2.9
- Interest, modified retroactive order, § 1.3
- Interstate enforcement of child support orders, § 2.7
- IV-D spousal support, Table 7

IV-D temporary child support, § 2.6 and Table 10

Laches (as defense) to arrearage, § 1.5

Length of marriage (factor), § 1.4

Liabilities, as factor in awarding alimony, § 1.4

Locating non-custodial parent, § 2.7

Long arm statute, 1.6

 Connecticut, Table 19

Lump sum alimony, §§ 1.3, 1.7

Maintenance, definition, § 2.1

Marriage of child, § 2.8

Medical care (necessity), § 1.1

Medical/Dental expenses, deduction of, § 2.9

Mental retardation, child with, § 2.8

Mentally ill spouse, § 1.1

Misconduct, effect on modification, § 1.3

Modifying alimony, §§ 1.3 and 1.7

Modifying child support, § 2.4

Motion for Child Support Pendente Lite, § 2.3

Motion for contempt (form), § 1.5

Motion for Contempt (form), § 2.6

Motion for Determination of Alimony and Child Support (form), § 2.3

Motion for modification (form), § 1.3

Motion for Modification, JD-FM-174 (form), § 2.4

Necessities (spousal), § 1.1

Needs (factor)

 Alimony, § 1.4

 Child support, § 2.5

Nondischargeable (bankruptcy), § 1.10

Nondischargeable duty (bankruptcy), § 2.10

Nonresident party, §§ 1.6, 2.7 and Table 19

Occupation (factor in awarding alimony), § 1.4

Occupation of parent or child (factor in child support), § 2.5

Open-ended alimony, § 1.7

Order of support for mentally ill spouse, §§ 1.1, 1.7

Out of state decree, § 1.5

Out-of-state orders, § 2.7

Parental agreements, Table 18

Payment fixed as payable for support, Table 23

Pendente lite, §§ 1.2, 2.3

 Amount of award, § 1.2

 Definition, § 1.2

 Forms, § 1.2

 Purpose, § 1.2

 Time for raising claim, § 1.2

Periodic alimony, § 1.7

Permanent alimony, § 1.7

Physical disabilities, child with, § 2.8

Plastic surgery (as necessity), § 1.1

Post age 18 support, § 2.8

Post judgment motion, § 1.3

Prenuptial agreements, § 1.2

Proof of change in circumstances justifying decrease in child support payments, § 2.4

Proofs

 Abandonment without cause, Table 1

 Former wife's ability to earn own support, Table 4

 Right to decrease support, § 1.3

 Right to increased support, § 1.3

 Right to support and factors affecting, Table 5

 Right to terminate support, § 1.3

 Wife's ability to support herself, Table 3

Property division (factor), § 1.4

Questions and answers, alimony and taxes, Table 8

Registry of support orders, § 2.7

Regulations enforcing child support, Table 15

Rehabilitative alimony, definition, § 1.7

Remarriage, §§ 1.3, 1.7

Review of support agreements, § 2.8

Schedule for production at hearing (form), § 2.6

Separation defense, § 1.1

Shared custody, definition, § 2.2b

Station in life (factors), § 1.4

Substantial change in circumstances, §§ 1.3, 2.4

Support Enforcement Officers, Table 7

Support petition, § 2.1

Support test for dependents (tax), § 2.9

Tax consequences of alimony, § 1.9

Tax Reform Act of 1984, § 2.9 and Table 22

Tax refunds, collecting support from, § 2.9

Taxes, § 2.9 and Tables 22, 23

Temporary alimony, § 1.2

Temporary support, § 2.3

Termination of employment, § 2.4

Termination of child support, § 2.8

Threshold requirement, § 2.7

Uniform Interstate Family Support Act, Table 21

Vacation of alimony, § 1.3

Visitation and child support, § 2.4

Vocation skills (factor), §§ 1.4, 2.5